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111TH CONGRESS  
1ST SESSION

**S. 336**

**[Report No. 111–3]**

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 27, 2009

Mr. INOUE, from the Committee on Appropriations, reported the following original bill, which was read twice and placed on the calendar

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**A BILL**

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the following sums are appropriated, out of any  
4       money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 2009, and for other pur-  
 2 poses, namely:

3 TITLE I—AGRICULTURE, RURAL DEVELOP-  
 4 MENT, FOOD AND DRUG ADMINISTRATION,  
 5 AND RELATED AGENCIES

6 DEPARTMENT OF AGRICULTURE

7 OFFICE OF THE SECRETARY

8 (INCLUDING TRANSFERS OF FUNDS)

9 For an additional amount for the “Office of the Sec-  
 10 retary”, \$300,000,000, to remain available until Sep-  
 11 tember 30, 2010: *Provided*, That the Secretary may trans-  
 12 fer these funds to agencies of the Department, other than  
 13 the Forest Service, for necessary replacement, moderniza-  
 14 tion, or upgrades of laboratories or other facilities to im-  
 15 prove workplace safety and mission-area efficiencies as  
 16 deemed appropriate by the Secretary: *Provided further*,  
 17 that the Secretary shall provide to the Committees on Ap-  
 18 propriations of the House and Senate a plan on the alloca-  
 19 tion of these funds no later than 60 days after the date  
 20 of enactment of this Act.

21 OFFICE OF INSPECTOR GENERAL

22 For an additional amount for “Office of Inspector  
 23 General”, \$5,000,000, to remain available until Sep-  
 24 tember 30, 2010, for oversight and audit of programs,  
 25 grants, and activities funded under this title.

1 COOPERATIVE STATE RESEARCH, EDUCATION AND  
 2 ECONOMIC SERVICE  
 3 RESEARCH AND EDUCATION ACTIVITIES

4 For an additional amount for competitive grants au-  
 5 thorized at 7 U.S.C. 450(i)(b), \$100,000,000, to remain  
 6 available until September 30, 2010.

7 FARM SERVICE AGENCY  
 8 SALARIES AND EXPENSES

9 For an additional amount for “Farm Service Agency,  
 10 Salaries and Expenses”, \$171,000,000, to remain avail-  
 11 able until September 30, 2010.

12 AGRICULTURAL CREDIT INSURANCE FUND PROGARM  
 13 ACCOUNT

14 For an additional amount for gross obligations for  
 15 the principal amount of direct and guaranteed farm own-  
 16 ership (7 U.S.C 1922 et seq.) and operating (7 U.S.C.  
 17 1941 et seq.) loans, to be available from funds in the Agri-  
 18 cultural Credit Insurance Fund Program Account, as fol-  
 19 lows: farm ownership loans, \$400,000,000 of which  
 20 \$100,000,000 shall be for unsubsidized guaranteed loans  
 21 and \$300,000,000 shall be for direct loans; and operating  
 22 loans, \$250,000,000 of which \$50,000,000 shall be for un-  
 23 subsidized guaranteed loans and \$200,000,000 shall be for  
 24 direct loans.

25 For an additional amount for the cost of direct and  
 26 guaranteed loans, including the cost of modifying loans,

1 as defined in section 502 of the Congressional Budget Act  
 2 of 1974, to remain available until September 30, 2010,  
 3 as follows: farm ownership loans, \$17,530,000 of which  
 4 \$330,000 shall be for unsubsidized guaranteed loans and  
 5 \$17,200,000 shall be for direct loans; and operating loans,  
 6 \$24,900,000 of which \$1,300,000 shall be for unsub-  
 7 sidized guaranteed loans and \$23,600,000 shall be for di-  
 8 rect loans.

9 Funds appropriated by this Act to the Agricultural  
 10 Credit Insurance Fund Program Account for farm owner-  
 11 ship, operating, and emergency direct loans and unsub-  
 12 sidized guaranteed loans may be transferred among these  
 13 programs: *Provided*, That the Committees on Appropria-  
 14 tions of both Houses of Congress are notified at least 15  
 15 days in advance of any transfer.

16 NATURAL RESOURCES CONSERVATION SERVICE

17 WATERSHED AND FLOOD PREVENTION OPERATIONS

18 For an additional amount for “Watershed and Flood  
 19 Prevention Operations”, \$275,000,000, to remain avail-  
 20 able until September 30, 2010.

21 WATERSHED REHABILITATION PROGRAM

22 For an additional amount for the “Watershed Reha-  
 23 bilitation Program”, \$120,000,000, to remain available  
 24 until September 30, 2010.

1       RURAL DEVELOPMENT SALARIES AND EXPENSES

2       For an additional amount for “Rural Development,  
3 Salaries and Expenses”, \$110,000,000, to remain avail-  
4 able until September 30, 2010.

5                   RURAL HOUSING SERVICE

6       RURAL HOUSING INSURANCE PROGRAM ACCOUNT

7       For an additional amount for gross obligations for  
8 the principal amount of direct and guaranteed loans as  
9 authorized by title V of the Housing Act of 1949, to be  
10 available from funds in the Rural Housing Insurance  
11 Fund Program Account, as follows: \$1,000,000,000 for  
12 section 502 direct loans; and \$10,472,000,000 for section  
13 502 unsubsidized guaranteed loans.

14       For an additional amount for the cost of direct and  
15 guaranteed loans, including the cost of modifying loans,  
16 as defined in section 502 of the Congressional Budget Act  
17 of 1974, to remain available until September 30, 2010,  
18 as follows: \$67,000,000 for section 502 direct loans; and  
19 \$133,000,000 for section 502 unsubsidized guaranteed  
20 loans.

21       RURAL COMMUNITY FACILITIES PROGRAM ACCOUNT

22       For an additional amount for the cost of direct loans,  
23 loan guarantees, and grants for rural community facilities  
24 programs as authorized by section 306 and described in  
25 section 381E(d)(1) of the Consolidated Farm and Rural

1 Development Act, \$127,000,000, to remain available until  
 2 September 30, 2010.

3 RURAL BUSINESS—COOPERATIVE SERVICE

4 RURAL BUSINESS PROGRAM ACCOUNT

5 For an additional amount for the cost of guaranteed  
 6 loans and grants as authorized by sections 310B(a)(2)(A)  
 7 and 310B(c) of the Consolidated Farm and Rural Devel-  
 8 opment Act (7 U.S.C. 1932), \$150,000,000, to remain  
 9 available until September 30, 2010.

10 BIOREFINERY ASSISTANCE

11 For the cost of loan guarantees and grants, as au-  
 12 thorized by section 9003 of the Farm Security and Rural  
 13 Investment Act of 2002 (7 U.S.C. 8103), \$200,000,000,  
 14 to remain available until September 30, 2010.

15 RURAL ENERGY FOR AMERICA PROGRAM

16 For an additional amount for the cost of loan guaran-  
 17 tees and grants, as authorized by section 9007 of the  
 18 Farm Security and Rural Investment Act of 2002 (7  
 19 U.S.C. 8107), \$50,000,000, to remain available until Sep-  
 20 tember 30, 2010: *Provided*, That these funds may be used  
 21 by tribes, local units of government, and schools in rural  
 22 areas, as defined in section 343(a) of the Consolidated  
 23 Farm and Rural Development Act (7 U.S.C. 1991(a)).

1 RURAL UTILITIES SERVICE

2 RURAL WATER AND WASTE DISPOSAL PROGRAM ACCOUNT

3 For an additional amount for the cost of direct loans,  
 4 loan guarantees, and grants for the rural water, waste  
 5 water, waste disposal, and solid waste management pro-  
 6 grams authorized by sections 306, 306A, 306C, 306D,  
 7 and 310B and described in sections 306C(a)(2), 306D,  
 8 and 381E(d)(2) of the Consolidated Farm and Rural De-  
 9 velopment Act, \$1,375,000,000, to remain available until  
 10 September 30, 2010.

11 DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND  
 12 PROGRAM ACCOUNT

13 For an additional amount for direct loans and grants  
 14 for distance learning and telemedicine services in rural  
 15 areas, as authorized by 7 U.S.C. 950aaa, et seq.,  
 16 \$200,000,000, to remain available until September 30,  
 17 2010.

18 FOOD AND NUTRITION SERVICE

19 CHILD NUTRITION PROGRAMS

20 For additional amount for the Richard B. Russell  
 21 National School Lunch Act (42 U.S.C. 1751 et. seq.), ex-  
 22 cept section 21, and the Child Nutrition Act of 1966 (42  
 23 U.S.C. 1771 et. seq.), except sections 17 and 21,  
 24 \$198,000,000, to remain available until September 30,  
 25 2010, to carry out a grant program for National School  
 26 Lunch Program equipment assistance: *Provided, That*

1 such funds shall be provided to States administering a  
 2 school lunch program through a formula based on the  
 3 ratio that the total number of lunches served in the Pro-  
 4 gram during the second preceding fiscal year bears to the  
 5 total number of such lunches served in all States in such  
 6 second preceding fiscal year: *Provided further*, That of  
 7 such funds, the Secretary may approve the reserve by  
 8 States of up to \$20,000,000 for necessary enhancements  
 9 to the State Distributing Agency's commodity ordering  
 10 and management system to achieve compatibility with the  
 11 Department's web-based supply chain management sys-  
 12 tem: *Provided further*, That of the funds remaining, the  
 13 State shall provide competitive grants to school food au-  
 14 thorities based upon the need for equipment assistance in  
 15 participating schools with priority given to schools in  
 16 which not less than 50 percent of the students are eligible  
 17 for free or reduced price meals under the Richard B. Rus-  
 18 sell National School Lunch Act and priority given to  
 19 schools purchasing equipment for the purpose of offering  
 20 more healthful foods and meals, in accordance with stand-  
 21 ards established by the Secretary.

22 SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR  
 23 WOMEN, INFANTS, AND CHILDREN (WIC)

24 For an additional amount for the special supple-  
 25 mental nutrition program as authorized by section 17 of  
 26 the Child Nutrition Act of 1966 (42 U.S.C. 1786), to re-



1 main available until September 30, 2010, \$500,000,000,  
 2 of which \$380,000,000 shall be placed in reserve to be  
 3 allocated as the Secretary deems necessary, notwith-  
 4 standing section 17(i) of such Act, to support participa-  
 5 tion should cost or participation exceed budget estimates,  
 6 and of which \$120,000,000 shall be for the purposes speci-  
 7 fied in section 17(h)(10)(B)(ii): *Provided*, That up to one  
 8 percent of the funding provided for the purposes specified  
 9 in section 17(h)(10)(B)(ii) may be reserved by the Sec-  
 10 retary for Federal administrative activities in support of  
 11 those purposes.

12 COMMODITY ASSISTANCE PROGRAM

13 For an additional amount for the “Commodity As-  
 14 sistance Program”, to remain available until September  
 15 30, 2010, \$150,000,000, which the Secretary shall use to  
 16 purchase a variety of commodities as authorized by the  
 17 Commodity Credit Corporation or under section 32 of the  
 18 Act entitled “An Act to amend the Agricultural Adjust-  
 19 ment Act, and for other purposes”, approved August 24,  
 20 1935 (7 U.S.C. 612c): *Provided*, That the Secretary shall  
 21 distribute the commodities to States for distribution in ac-  
 22 cordance with section 214 of the Emergency Food Assist-  
 23 ance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note):  
 24 *Provided further*, That of the funds made available, the  
 25 Secretary may use up to \$50,000,000 for costs associated  
 26 with the distribution of commodities.

## 1           GENERAL PROVISIONS—THIS TITLE

2           SEC. 101. Funds appropriated by this Act and made  
3 available to the United States Department of Agriculture  
4 for broadband direct loans and loan guarantees, as author-  
5 ized under title VI of the Rural Electrification Act of 1936  
6 (7 U.S.C. 950bb) and for grants, shall be available for  
7 broadband infrastructure in any area of the United States  
8 notwithstanding title VI of the Rural Electrification Act  
9 of 1936: *Provided*, That at least 75 percent of the area  
10 served by the projects receiving funds from such grants,  
11 loans, or loan guarantees is in a rural area without suffi-  
12 cient access to high speed broadband service to facilitate  
13 rural economic development, as determined by the Sec-  
14 retary: *Provided further*, That priority for awarding funds  
15 made available under this paragraph shall be given to  
16 projects that provide service to the highest proportion of  
17 rural residents that do not have sufficient access to  
18 broadband service: *Provided further*, That priority for  
19 awarding such funds shall be given to project applications  
20 that demonstrate that, if the application is approved, all  
21 project elements will be fully funded: *Provided further*,  
22 That priority for awarding such funds shall be given to  
23 activities that can commence promptly following approval:  
24 *Provided further*, That the Department shall submit a re-  
25 port on planned spending and actual obligations describ-

1 ing the use of these funds not later than 90 days after  
2 the date of enactment of this Act, and quarterly thereafter  
3 until all funds are obligated, to the Committees on Appro-  
4 priations of the House of Representatives and the Senate.

5 SEC. 102. NUTRITION FOR ECONOMIC RECOVERY.

6 (a) MAXIMUM BENEFIT INCREASES.—

7 (1) ECONOMIC RECOVERY 1-MONTH BEGINNING  
8 STIMULUS PAYMENT.—For the first month that be-  
9 gins not less than 25 days after the date of enact-  
10 ment of this Act, the Secretary of Agriculture (re-  
11 ferred to in this section as the “Secretary”) shall in-  
12 crease the cost of the thrifty food plan for purposes  
13 of section 8(a) of the Food and Nutrition Act of  
14 2008 (7 U.S.C. 2017(a)) by 85 percent.

15 (2) REMAINDER OF FISCAL YEAR 2009.—Begin-  
16 ning with the second month that begins not less  
17 than 25 days after the date of enactment of this  
18 Act, and for each subsequent month through the  
19 month ending September 30, 2009, the Secretary  
20 shall increase the cost of the thrifty food plan for  
21 purposes of section 8(a) of the Food and Nutrition  
22 Act of 2008 (7 U.S.C. 2017(a)) by 12 percent.

23 (3) SUBSEQUENT INCREASE FOR FISCAL YEAR  
24 2010.—Beginning on October 1, 2009, and for each  
25 subsequent month through the month ending Sep-

1       tember 30, 2010, the Secretary shall increase the  
2       cost of the thrifty food plan for purposes of section  
3       8(a) of the Food and Nutrition Act of 2008 (7  
4       U.S.C. 2017(a)) by an amount equal to 12 percent,  
5       less the percentage by which the Secretary deter-  
6       mines the thrifty food plan would otherwise be ad-  
7       justed on October 1, 2009, as required under section  
8       3(u) of that Act (7 U.S.C. 2012(u)), if the percent-  
9       age is less than 12 percent.

10           (4) SUBSEQUENT INCREASE FOR FISCAL YEAR  
11       2011.—Beginning on October 1, 2010, and for each  
12       subsequent month through the month ending Sep-  
13       tember 30, 2011, the Secretary shall increase the  
14       cost of the thrifty food plan for purposes of section  
15       8(a) of the Food and Nutrition Act of 2008 (7  
16       U.S.C. 2017(a)) by an amount equal to 12 percent,  
17       less the sum of the percentages by which the Sec-  
18       retary determines the thrifty food plan would other-  
19       wise be adjusted on October 1, 2009 and October 1,  
20       2010, as required under section 3(u) of that Act (7  
21       U.S.C. 2012(u)), if the sum of such percentages is  
22       less than 12 percent.

23           (5) TERMINATION OF EFFECTIVENESS.—Effec-  
24       tive beginning October 1, 2011, the authority pro-

1 vided by this subsection terminates and has no ef-  
2 fect.

3 (b) ADMINISTRATION.—In carrying out this section,  
4 the Secretary shall—

5 (1) consider the benefit increases described in  
6 subsection (a) to be a mass change;

7 (2) require a simple process for States to notify  
8 households of the changes in benefits;

9 (3) consider section 16(c)(3)(A) of the Food  
10 and Nutrition Act of 2008 (7 U.S.C. 2025(c)(3)(A))  
11 to apply to any errors in the implementation of this  
12 section, without regard to the 120-day limit de-  
13 scribed in section 16(c)(3)(A) of that Act;

14 (4) disregard the additional amount of benefits  
15 that a household receives as a result of this section  
16 in determining the amount of overissuances under  
17 section 13 of the Food and Nutrition Act of 2008  
18 (7 U.S.C. 2022) and the hours of participation in a  
19 program under section 6(d), 20, or 26 of that Act  
20 (7 U.S.C. 2015(d), 2029, 2035); and

21 (5) set the tolerance level for excluding small  
22 errors for the purposes of section 16(c) of the Food  
23 and Nutrition Act of 2008 (7 U.S.C. 2025(c)) at  
24 \$50 for the period that the benefit increase under  
25 subsection (a) is in effect.

1 (c) ADMINISTRATIVE EXPENSES.—

2 (1) IN GENERAL.—For the costs of State ad-  
3 ministrative expenses associated with carrying out  
4 this section and administering the supplemental nu-  
5 trition assistance program established under the  
6 Food and Nutrition Act of 2008 (7 U.S.C. 2011 et  
7 seq.) (referred to in this section as the “supple-  
8 mental nutrition assistance program”) during a pe-  
9 riod of rising program caseloads, and for the ex-  
10 penses of the Secretary under paragraph (6), the  
11 Secretary shall make available \$150,000,000 for  
12 each of fiscal years 2009 and 2010, to remain avail-  
13 able through September 30, 2010.

14 (2) TIMING FOR FISCAL YEAR 2009.—Not later  
15 than 60 days after the date of enactment of this  
16 Act, the Secretary shall make available to States  
17 amounts for fiscal year 2009 under paragraph (1).

18 (3) ALLOCATION OF FUNDS.—Except as pro-  
19 vided in paragraph (6), funds described in para-  
20 graph (1) shall be made available to States that  
21 meet the requirements of paragraph (5) as grants to  
22 State agencies for each fiscal year as follows:

23 (A) 75 percent of the amounts available  
24 for each fiscal year shall be allocated to States  
25 based on the share of each State of households

1           that participate in the supplemental nutrition  
2           assistance program as reported to the Depart-  
3           ment of Agriculture for the most recent 12-  
4           month period for which data are available, ad-  
5           justed by the Secretary (in the discretion of the  
6           Secretary) for participation in disaster pro-  
7           grams under section 5(h) of the Food and Nu-  
8           trition Act of 2008 (7 U.S.C. 2014(h)); and

9           (B) 25 percent of the amounts available  
10          for each fiscal year shall be allocated to States  
11          based on the increase in the number of house-  
12          holds that participate in the supplemental nu-  
13          trition assistance program as reported to the  
14          Department of Agriculture over the most recent  
15          12-month period for which data are available,  
16          adjusted by the Secretary (in the discretion of  
17          the Secretary) for participation in disaster pro-  
18          grams under section 5(h) of the Food and Nu-  
19          trition Act of 2008 (7 U.S.C. 2014(h)).

20          (4) REDISTRIBUTION.—The Secretary shall de-  
21          termine an appropriate procedure for redistribution  
22          of amounts allocated to States that would otherwise  
23          be provided allocations under paragraph (3) for a  
24          fiscal year but that do not meet the requirements of  
25          paragraph (5).

1 (5) MAINTENANCE OF EFFORT.—

2 (A) DEFINITION OF SPECIFIED STATE AD-  
3 MINISTRATIVE COSTS.—In this paragraph:

4 (i) IN GENERAL.—The term “specified  
5 State administrative costs” includes all  
6 State administrative costs under the sup-  
7 plemental nutrition assistance program.

8 (ii) EXCLUSIONS.—The term “speci-  
9 fied State administrative costs” does not  
10 include—

11 (I) the costs of employment and  
12 training programs under section 6(d),  
13 20, or 26 of the Food and Nutrition  
14 Act of 2008 (7 U.S.C. 2015(d), 2029,  
15 2035);

16 (II) the costs of nutrition edu-  
17 cation under section 11(f) of that Act  
18 (7 U.S.C. 2020(f)); and

19 (III) any other costs the Sec-  
20 retary determines should be excluded.

21 (B) REQUIREMENT.—The Secretary shall  
22 make funds under this subsection available only  
23 to States that, as determined by the Secretary,  
24 maintain State expenditures on specified State  
25 administrative costs.



1           (6) MONITORING AND EVALUATION.—Of the  
2           amounts made available under paragraph (1), the  
3           Secretary may retain up to \$5,000,000 for the costs  
4           incurred by the Secretary in monitoring the integrity  
5           and evaluating the effects of the payments made  
6           under this section.

7           (d) FOOD DISTRIBUTION PROGRAM ON INDIAN RES-  
8           ERVATIONS.—For the costs of administrative expenses as-  
9           sociated with the food distribution program on Indian res-  
10          ervations established under section 4(b) of the Food and  
11          Nutrition Act of 2008 (7 U.S.C. 2013(b)), the Secretary  
12          shall make available \$5,000,000, to remain available until  
13          September 30, 2010.

14          (e) CONSOLIDATED BLOCK GRANTS FOR PUERTO  
15          RICO AND AMERICAN SAMOA.—

16               (1) FISCAL YEAR 2009.—

17                   (A) IN GENERAL.—For fiscal year 2009,  
18                   the Secretary shall increase by 12 percent the  
19                   amount available for nutrition assistance for eli-  
20                   gible households under the consolidated block  
21                   grants for the Commonwealth of Puerto Rico  
22                   and American Samoa under section 19 of the  
23                   Food and Nutrition Act of 2008 (7 U.S.C.  
24                   2028).

1 (B) AVAILABILITY OF FUNDS.—Funds  
2 made available under subparagraph (A) shall  
3 remain available through September 30, 2010.

4 (2) FISCAL YEAR 2010.—For fiscal year 2010,  
5 the Secretary shall increase the amount available for  
6 nutrition assistance for eligible households under the  
7 consolidated block grants for the Commonwealth of  
8 Puerto Rico and American Samoa under section 19  
9 of the Food and Nutrition Act of 2008 (7 U.S.C.  
10 2028) by 12 percent, less the percentage by which  
11 the Secretary determines the consolidated block  
12 grants would otherwise be adjusted on October 1,  
13 2009, as required by section 19(a)(2)(A)(ii) of that  
14 Act (7 U.S.C. 2028(a)(2)(A)(ii)), if the percentage  
15 is less than 12 percent.

16 (3) FISCAL YEAR 2011.—For fiscal year 2011,  
17 the Secretary shall increase the amount available for  
18 nutrition assistance for eligible households under the  
19 consolidated block grants for the Commonwealth of  
20 Puerto Rico and American Samoa under section 19  
21 of the Food and Nutrition Act of 2008 (7 U.S.C.  
22 2028) by 12 percent, less the sum of the percentages  
23 by which the Secretary determines the consolidated  
24 block grants would otherwise be adjusted on October  
25 1, 2009, and October 1, 2010, as required by section

1        19(a)(2)(A)(ii)    of    that    Act    (7    U.S.C.  
2        2028(a)(2)(A)(ii)), if the sum of the percentages is  
3        less than 12 percent.

4        (f) TREATMENT OF JOBLESS WORKERS.—

5            (1)    REMAINDER    OF    FISCAL    YEAR    2009  
6        THROUGH FISCAL YEAR 2011.—Beginning with the  
7        first month that begins not less than 25 days after  
8        the date of enactment of this Act and for each sub-  
9        sequent month through September 30, 2011, eligi-  
10       bility for supplemental nutrition assistance program  
11       benefits shall not be limited under section 6(o)(2) of  
12       the Food and Nutrition Act of 2008 unless an indi-  
13       vidual does not comply with the requirements of a  
14       program offered by the State agency that meets the  
15       standards of subparagraphs (B) or (C) of that para-  
16       graph.

17            (2) FISCAL YEAR 2012 AND THEREAFTER.—Be-  
18        ginning on October 1, 2011, for the purposes of sec-  
19        tion 6(o) of the Food and Nutrition Act of 2008 (7  
20        U.S.C. 2015(o)), a State agency shall disregard any  
21        period during which an individual received benefits  
22        under the supplemental nutrition assistance program  
23        prior to October 1, 2011.

24        (g) FUNDING.—There are appropriated to the Sec-  
25        retary out of funds of the Treasury not otherwise appro-

1 priated such sums as are necessary to carry out this sec-  
 2 tion.

3 SEC. 103. AGRICULTURAL DISASTER ASSISTANCE  
 4 TRANSITION. (a) FEDERAL CROP INSURANCE ACT.—Sec-  
 5 tion 531(g) of the Federal Crop Insurance Act (7 U.S.C.  
 6 1531(g)) is amended by adding at the end the following:

7 “(7) 2008 TRANSITION ASSISTANCE.—

8 “(A) IN GENERAL.—Eligible producers on  
 9 a farm described in subparagraph (A) of para-  
 10 graph (4) that failed to timely pay the appro-  
 11 priate fee described in that subparagraph shall  
 12 be eligible for assistance under this section in  
 13 accordance with subparagraph (B) if the eligi-  
 14 ble producers on the farm—

15 “(i) pay the appropriate fee described  
 16 in paragraph (4)(A) not later than 90 days  
 17 after the date of enactment of this para-  
 18 graph; and

19 “(ii)(I) in the case of each insurable  
 20 commodity of the eligible producers on the  
 21 farm, excluding grazing land, agree to ob-  
 22 tain a policy or plan of insurance under  
 23 subtitle A (excluding a crop insurance pilot  
 24 program under that subtitle) for the next  
 25 insurance year for which crop insurance is

1 available to the eligible producers on the  
2 farm at a level of coverage equal to 70 per-  
3 cent or more of the recorded or appraised  
4 average yield indemnified at 100 percent of  
5 the expected market price, or an equivalent  
6 coverage; and

7 “(II) in the case of each noninsurable  
8 commodity of the eligible producers on the  
9 farm, agree to file the required paperwork,  
10 and pay the administrative fee by the ap-  
11 plicable State filing deadline, for the non-  
12 insured crop assistance program for the  
13 2009 crop year.

14 “(B) AMOUNT OF ASSISTANCE.—Eligible  
15 producers on a farm that meet the require-  
16 ments of subparagraph (A) shall be eligible to  
17 receive assistance under this section as if the el-  
18 igible producers on the farm—

19 “(i) in the case of each insurable com-  
20 modity of the eligible producers on the  
21 farm, had obtained a policy or plan of in-  
22 surance for the 2008 crop year at a level  
23 of coverage not to exceed 70 percent or  
24 more of the recorded or appraised average  
25 yield indemnified at 100 percent of the ex-

pected market price, or an equivalent coverage; and

“(ii) in the case of each noninsurable commodity of the eligible producers on the farm, had filed the required paperwork, and paid the administrative fee by the applicable State filing deadline, for the noninsured crop assistance program for the 2008 crop year, except that in determining yield under that program, the Secretary shall use a percentage that is 70 percent.

“(C) EQUITABLE RELIEF.—Except as provided in subparagraph (D), eligible producers on a farm that met the requirements of paragraph (1) before the deadline described in paragraph (4)(A) and received, or are eligible to receive, a disaster assistance payment under this section for a production loss during the 2008 crop year shall be eligible to receive an additional amount equal to the greater of—

“(i) the amount that would have been calculated under subparagraph (B) if the eligible producers on the farm had paid the appropriate fee under that subparagraph; or

1 “(ii) the amount that would have been  
2 calculated under subparagraph (A) of sub-  
3 section (b)(3) if—

4 “(I) in clause (i) of that subpara-  
5 graph, ‘120 percent’ is substituted for  
6 ‘115 percent’; and

7 “(II) in clause (ii) of that sub-  
8 paragraph, ‘125’ is substituted for  
9 ‘120 percent’.

10 “(D) LIMITATION.—For amounts made  
11 available under this paragraph, the Secretary  
12 may make such adjustments as are necessary to  
13 ensure that no producer receives a payment  
14 under this paragraph for an amount in excess  
15 of the assistance received by a similarly situated  
16 producer that had purchased the same or high-  
17 er level of crop insurance prior to the date of  
18 enactment of this paragraph.

19 “(E) AUTHORITY OF THE SECRETARY.—  
20 The Secretary may provide such additional as-  
21 sistance as the Secretary considers appropriate  
22 to provide equitable treatment for eligible pro-  
23 ducers on a farm that suffered production  
24 losses in the 2008 crop year that result in

1           multiyear production losses, as determined by  
2           the Secretary.

3           “(F) LACK OF ACCESS.—Notwithstanding  
4           any other provision of this section, the Sec-  
5           retary may provide assistance under this section  
6           to eligible producers on a farm that—

7                   “(i) suffered a production loss due to  
8                   a natural cause during the 2008 crop year;  
9                   and

10                   “(ii) as determined by the Secretary—

11                           “(I)(aa) except as provided in  
12                           item (bb), lack access to a policy or  
13                           plan of insurance under subtitle A; or

14                           “(bb) do not qualify for a written  
15                           agreement because 1 or more farming  
16                           practices, which the Secretary has de-  
17                           termined are good farming practices,  
18                           of the eligible producers on the farm  
19                           differ significantly from the farming  
20                           practices used by producers of the  
21                           same crop in other regions of the  
22                           United States; and

23                           “(II) are not eligible for the non-  
24                           insured crop disaster assistance pro-  
25                           gram established by section 196 of the



1 Federal Agriculture Improvement and  
2 Reform Act of 1996 (7 U.S.C.  
3 7333).”.

4 (b) TRADE ACT OF 1974.—Section 901(g) of the  
5 Trade Act of 1974 (19 U.S.C. 2497(g)) is amended by  
6 adding at the end the following:

7 “(7) 2008 TRANSITION ASSISTANCE.—

8 “(A) IN GENERAL.—Eligible producers on  
9 a farm described in subparagraph (A) of para-  
10 graph (4) that failed to timely pay the appro-  
11 priate fee described in that subparagraph shall  
12 be eligible for assistance under this section in  
13 accordance with subparagraph (B) if the eligi-  
14 ble producers on the farm—

15 “(i) pay the appropriate fee described  
16 in paragraph (4)(A) not later than 90 days  
17 after the date of enactment of this para-  
18 graph; and

19 “(ii)(I) in the case of each insurable  
20 commodity of the eligible producers on the  
21 farm, excluding grazing land, agree to ob-  
22 tain a policy or plan of insurance under  
23 the Federal Crop Insurance Act (7 U.S.C.  
24 1501 et seq.) (excluding a crop insurance  
25 pilot program under that Act) for the next

1 insurance year for which crop insurance is  
2 available to the eligible producers on the  
3 farm at a level of coverage equal to 70 per-  
4 cent or more of the recorded or appraised  
5 average yield indemnified at 100 percent of  
6 the expected market price, or an equivalent  
7 coverage; and

8 “(II) in the case of each noninsurable  
9 commodity of the eligible producers on the  
10 farm, agree to file the required paperwork,  
11 and pay the administrative fee by the ap-  
12 plicable State filing deadline, for the non-  
13 insured crop assistance program for the  
14 2009 crop year.

15 “(B) AMOUNT OF ASSISTANCE.—Eligible  
16 producers on a farm that meet the require-  
17 ments of subparagraph (A) shall be eligible to  
18 receive assistance under this section as if the el-  
19 igible producers on the farm—

20 “(i) in the case of each insurable com-  
21 modity of the eligible producers on the  
22 farm, had obtained a policy or plan of in-  
23 surance for the 2008 crop year at a level  
24 of coverage not to exceed 70 percent or  
25 more of the recorded or appraised average

1 yield indemnified at 100 percent of the ex-  
2 pected market price, or an equivalent cov-  
3 erage; and

4 “(ii) in the case of each noninsurable  
5 commodity of the eligible producers on the  
6 farm, had filed the required paperwork,  
7 and paid the administrative fee by the ap-  
8 plicable State filing deadline, for the non-  
9 insured crop assistance program for the  
10 2008 crop year, except that in determining  
11 yield under that program, the Secretary  
12 shall use a percentage that is 70 percent.

13 “(C) **EQUITABLE RELIEF.**—Except as pro-  
14 vided in subparagraph (D), eligible producers  
15 on a farm that met the requirements of para-  
16 graph (1) before the deadline described in para-  
17 graph (4)(A) and received, or are eligible to re-  
18 ceive, a disaster assistance payment under this  
19 section for a production loss during the 2008  
20 crop year shall be eligible to receive an addi-  
21 tional amount equal to the greater of—

22 “(i) the amount that would have been  
23 calculated under subparagraph (B) if the  
24 eligible producers on the farm had paid the

1 appropriate fee under that subparagraph;  
2 or

3 “(ii) the amount that would have been  
4 calculated under subparagraph (A) of sub-  
5 section (b)(3) if—

6 “(I) in clause (i) of that subpara-  
7 graph, ‘120 percent’ is substituted for  
8 ‘115 percent’; and

9 “(II) in clause (ii) of that sub-  
10 paragraph, ‘125’ is substituted for  
11 ‘120 percent’.

12 “(D) LIMITATION.—For amounts made  
13 available under this paragraph, the Secretary  
14 may make such adjustments as are necessary to  
15 ensure that no producer receives a payment  
16 under this paragraph for an amount in excess  
17 of the assistance received by a similarly situated  
18 producer that had purchased the same or high-  
19 er level of crop insurance prior to the date of  
20 enactment of this paragraph.

21 “(E) AUTHORITY OF THE SECRETARY.—  
22 The Secretary may provide such additional as-  
23 sistance as the Secretary considers appropriate  
24 to provide equitable treatment for eligible pro-  
25 ducers on a farm that suffered production

1 losses in the 2008 crop year that result in  
2 multiyear production losses, as determined by  
3 the Secretary.

4 “(F) LACK OF ACCESS.—Notwithstanding  
5 any other provision of this section, the Sec-  
6 retary may provide assistance under this section  
7 to eligible producers on a farm that—

8 “(i) suffered a production loss due to  
9 a natural cause during the 2008 crop year;  
10 and

11 “(ii) as determined by the Secretary—

12 “(I)(aa) except as provided in  
13 item (bb), lack access to a policy or  
14 plan of insurance under subtitle A; or

15 “(bb) do not qualify for a written  
16 agreement because 1 or more farming  
17 practices, which the Secretary has de-  
18 termined are good farming practices,  
19 of the eligible producers on the farm  
20 differ significantly from the farming  
21 practices used by producers of the  
22 same crop in other regions of the  
23 United States; and

24 “(II) are not eligible for the non-  
25 insured crop disaster assistance pro-

1                   gram established by section 196 of the  
 2                   Federal Agriculture Improvement and  
 3                   Reform Act of 1996 (7 U.S.C.  
 4                   7333).”.

5       (c) EMERGENCY LOANS.—

6           (1) IN GENERAL.—For the principal amount of  
 7       direct emergency loans under section 321 of the  
 8       Consolidated Farm and Rural Development Act (7  
 9       U.S.C. 1961), \$200,000,000.

10          (2) DIRECT EMERGENCY LOANS.—For the cost  
 11       of direct emergency loans, including the cost of  
 12       modifying loans, as defined in section 502 of the  
 13       Congressional Budget Act of 1974 (2 U.S.C. 661a),  
 14       \$28,440,000, to remain available until September  
 15       30, 2010.

16       (d) 2008 AQUACULTURE ASSISTANCE.—

17           (1) DEFINITIONS.—In this subsection:

18               (A) ELIGIBLE AQUACULTURE PRO-  
 19       DUCER.—The term “eligible aquaculture pro-  
 20       ducer” means an aquaculture producer that  
 21       during the 2008 calendar year, as determined  
 22       by the Secretary—

23                   (i) produced an aquaculture species  
 24                   for which feed costs represented a substan-

1            tial percentage of the input costs of the  
2            aquaculture operation; and

3            (ii) experienced a substantial price in-  
4            crease of feed costs above the previous 5-  
5            year average.

6            (B) SECRETARY.—The term “Secretary”  
7            means the Secretary of Agriculture.

8            (2) GRANT PROGRAM.—

9            (A) IN GENERAL.—Of the funds of the  
10           Commodity Credit Corporation, the Secretary  
11           shall use not more than \$100,000,000, to re-  
12           main available until September 30, 2010, to  
13           carry out a program of grants to States to as-  
14           sist eligible aquaculture producers for losses as-  
15           sociated with high feed input costs during the  
16           2008 calendar year.

17           (B) NOTIFICATION.—Not later than 60  
18           days after the date of enactment of this Act,  
19           the Secretary shall notify the State department  
20           of agriculture (or similar entity) in each State  
21           of the availability of funds to assist eligible  
22           aquaculture producers, including such terms as  
23           determined by the Secretary to be necessary for  
24           the equitable treatment of eligible aquaculture  
25           producers.

1 (C) PROVISION OF GRANTS.—

2 (i) IN GENERAL.—The Secretary shall  
3 make grants to States under this sub-  
4 section on a pro rata basis based on the  
5 amount of aquaculture feed used in each  
6 State during the 2007 calendar year, as  
7 determined by the Secretary.

8 (ii) TIMING.—Not later than 120 days  
9 after the date of enactment of this Act, the  
10 Secretary shall make grants to States to  
11 provide assistance under this subsection.

12 (D) REQUIREMENTS.—The Secretary shall  
13 make grants under this subsection only to  
14 States that demonstrate to the satisfaction of  
15 the Secretary that the State will—

16 (i) use grant funds to assist eligible  
17 aquaculture producers;

18 (ii) provide assistance to eligible aqua-  
19 culture producers not later than 60 days  
20 after the date on which the State receives  
21 grant funds; and

22 (iii) not later than 30 days after the  
23 date on which the State provides assistance  
24 to eligible aquaculture producers, submit to  
25 the Secretary a report that describes—



1 (I) the manner in which the  
2 State provided assistance;

3 (II) the amounts of assistance  
4 provided per species of aquaculture;  
5 and

6 (III) the process by which the  
7 State determined the levels of assist-  
8 ance to eligible aquaculture producers.

9 (3) REDUCTION IN PAYMENTS.—An eligible  
10 aquaculture producer that receives assistance under  
11 this subsection shall not be eligible to receive any  
12 other assistance under the supplemental agricultural  
13 disaster assistance program established under sec-  
14 tion 531 of the Federal Crop Insurance Act (7  
15 U.S.C. 1531) and section 901 of the Trade Act of  
16 1974 (19 U.S.C. 2497) for any losses in 2008 relat-  
17 ing to the same species of aquaculture.

18 (4) REPORT TO CONGRESS.—Not later than  
19 180 days after the date of enactment of this Act, the  
20 Secretary shall submit to the appropriate committees  
21 of Congress a report that—

22 (A) describes in detail the manner in which  
23 this subsection has been carried out; and

24 (B) includes the information reported to  
25 the Secretary under paragraph (2)(D)(iii).

1        SEC. 104. (a) Hereafter, in this section, the term  
2 “nonambulatory disabled cattle” means cattle, other than  
3 cattle that are less than 5 months old or weigh less than  
4 500 pounds, subject to inspection under section 3(b) of  
5 the Federal Meat Inspection Act (21 U.S.C. 603(b)) that  
6 cannot rise from a recumbent position or walk, including  
7 cattle with a broken appendage, severed tendon or liga-  
8 ment, nerve paralysis, fractured vertebral column, or a  
9 metabolic condition.

10        (b) Hereafter, none of the funds made available  
11 under this or any other Act may be used to pay the sala-  
12 ries or expenses of any personnel of the Food Safety and  
13 Inspection Service to pass through inspection any non-  
14 ambulatory disabled cattle for use as human food, regard-  
15 less of the reason for the nonambulatory status of the cat-  
16 tle or the time at which the cattle became nonambulatory.

17        SEC. 105. STATE AND LOCAL GOVERNMENTS. Sec-  
18 tion 1001(f)(6)(A) of the Food Security Act of 1985 (7  
19 U.S.C. 1308(f)(6)(A)) is amended by inserting “(other  
20 than the conservation reserve program established under  
21 subchapter B of chapter 1 of subtitle D of title XII of  
22 this Act)” before the period at the end.

23        SEC. 106. Except for title I of the Food, Conserva-  
24 tion, and Energy Act of 2008 (Public Law 110–246),  
25 Commodity Credit Corporation funds provided in that Act

1 shall be available for administrative expenses, including  
 2 technical assistance, without regard to the limitation in  
 3 15 U.S.C. 714i.

4 TITLE II—COMMERCE, JUSTICE, SCIENCE, AND  
 5 RELATED AGENCIES

6 DEPARTMENT OF COMMERCE

7 BUREAU OF INDUSTRY AND SECURITY

8 OPERATIONS AND ADMINISTRATION

9 For an additional amount for “Operations and Ad-  
 10 ministration”, \$20,000,000, to remain available until Sep-  
 11 tember 30, 2010.

12 ECONOMIC DEVELOPMENT ADMINISTRATION

13 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

14 For an additional amount for “Economic Develop-  
 15 ment Assistance Programs”, \$150,000,000, to remain  
 16 available until September 30, 2010: *Provided*, That  
 17 \$50,000,000 shall be for economic adjustment assistance  
 18 as authorized by section 209 of the Public Works and Eco-  
 19 nomic Development Act of 1965, as amended (42 U.S.C.  
 20 3149): *Provided further*, That in allocating the funds pro-  
 21 vided in the previous proviso, the Secretary of Commerce  
 22 shall give priority consideration to areas of the Nation  
 23 that have experienced sudden and severe economic disloca-  
 24 tion and job loss due to corporate restructuring.

## 1 BUREAU OF THE CENSUS

## 2 PERIODIC CENSUSES AND PROGRAMS

3 For an additional amount for “Periodic Censuses and  
 4 Programs”, \$1,000,000,000, to remain available until  
 5 September 30, 2010.

## 6 NATIONAL TELECOMMUNICATIONS AND INFORMATION

## 7 ADMINISTRATION

## 8 BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM

9 For an amount for “Broadband Technology Opportu-  
 10 nities Program”, \$9,000,000,000, to remain available  
 11 until September 30, 2010: *Provided*, That of the funds  
 12 provided under this heading, \$8,650,000,000 shall be ex-  
 13 pended pursuant to section 201 of this Act, of which: not  
 14 less than \$200,000,000 shall be available for competitive  
 15 grants for expanding public computer center capacity, in-  
 16 cluding at community colleges and public libraries; not less  
 17 than \$250,000,000 shall be available for competitive  
 18 grants for innovative programs to encourage sustainable  
 19 adoption of broadband service; and \$10,000,000 shall be  
 20 transferred to “Department of Commerce, Office of In-  
 21 spector General” for the purposes of audits and oversight  
 22 of funds provided under this heading and such funds shall  
 23 remain available until expended: *Provided further*, That 50  
 24 percent of the funds provided in the previous proviso shall  
 25 be used to support projects in rural communities, which

1 in part may be transferred to the Department of Agri-  
2 culture for administration through the Rural Utilities  
3 Service if deemed necessary and appropriate by the Sec-  
4 retary of Commerce, in consultation with the Secretary of  
5 Agriculture, and only if the Committees on Appropriations  
6 of the House and the Senate are notified not less than  
7 15 days in advance of the transfer of such funds: *Provided*  
8 *further*, That of the funds provided under this heading,  
9 up to \$350,000,000 may be expended pursuant to Public  
10 Law 110–385 (47 U.S.C. 1301 note) and for the purposes  
11 of developing and maintaining a broadband inventory map  
12 pursuant to section 201 of this Act: *Provided further*, That  
13 of the funds provided under this heading, amounts deemed  
14 necessary and appropriate by the Secretary of Commerce,  
15 in consultation with the Federal Communications Com-  
16 mission (FCC), may be transferred to the FCC for the  
17 purposes of developing a national broadband plan or for  
18 carrying out any other FCC responsibilities pursuant to  
19 section 201 of this Act, and only if the Committees on  
20 Appropriations of the House and the Senate are notified  
21 not less than 15 days in advance of the transfer of such  
22 funds: *Provided further*, That not more than 3 percent of  
23 funds provided under this heading may be used for admin-  
24 istrative costs, and this limitation shall apply to funds

1 which may be transferred to the Department of Agri-  
 2 culture and the FCC.

3 DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM

4 For an amount for “Digital-to-Analog Converter Box  
 5 Program”, \$650,000,000, for additional coupons and re-  
 6 lated activities under the program implemented under sec-  
 7 tion 3005 of the Digital Television Transition and Public  
 8 Safety Act of 2005, to remain available until September  
 9 30, 2010: *Provided*, That of the amounts provided under  
 10 this heading, \$90,000,000 may be for education and out-  
 11 reach, including grants to organizations for programs to  
 12 educate vulnerable populations, including senior citizens,  
 13 minority communities, people with disabilities, low-income  
 14 individuals, and people living in rural areas, about the  
 15 transition and to provide one-on-one assistance to vulner-  
 16 able populations, including help with converter box instal-  
 17 lation: *Provided further*, That the amounts provided in the  
 18 previous proviso may be transferred to the Federal Com-  
 19 munications Commission (Commission) if deemed nec-  
 20 essary and appropriate by the Secretary of Commerce in  
 21 consultation with the Commission, and only if the Com-  
 22 mittees on Appropriations of the House and the Senate  
 23 are notified not less than 5 days in advance of transfer  
 24 of such funds: *Provided further*, That \$2,000,000 of funds  
 25 provided under this heading shall be transferred to “De-

1 partment of Commerce, Office of Inspector General” for  
 2 audits and oversight of funds provided under this heading.

3 NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY  
 4 SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

5 For an additional amount for “Scientific and Tech-  
 6 nical Research and Services”, \$218,000,000, to remain  
 7 available until September 30, 2010.

8 CONSTRUCTION OF RESEARCH FACILITIES

9 For an additional amount for “Construction of Re-  
 10 search Facilities”, \$357,000,000, to remain available until  
 11 September 30, 2010.

12 NATIONAL OCEANIC AND ATMOSPHERIC  
 13 ADMINISTRATION

14 OPERATIONS, RESEARCH, AND FACILITIES

15 For an additional amount for “Operations, Research,  
 16 and Facilities”, \$427,000,000, to remain available until  
 17 September 30, 2010.

18 PROCUREMENT, ACQUISITION AND CONSTRUCTION

19 For an additional amount for “Procurement, Acquisi-  
 20 tion and Construction”, \$795,000,000, to remain available  
 21 until September 30, 2010.

22 DEPARTMENTAL MANAGEMENT

23 For an additional amount for “Departmental Man-  
 24 agement”, \$34,000,000, to remain available until Sep-  
 25 tember 30, 2010.

## 1                   OFFICE OF INSPECTOR GENERAL

2           For an additional amount for “Office of Inspector  
3 General”, \$6,000,000, to remain available until September  
4 30, 2010.

## 5                   DEPARTMENT OF JUSTICE

## 6                   GENERAL ADMINISTRATION

## 7                   TACTICAL LAW ENFORCEMENT WIRELESS

## 8                   COMMUNICATIONS

9           For an additional amount for “Tactical Law Enforce-  
10 ment Wireless Communications”, \$200,000,000 for the  
11 costs of developing and implementing a nationwide Inte-  
12 grated Wireless network supporting Federal law enforce-  
13 ment, to remain available until September 30, 2010.

## 14                   DETENTION TRUSTEE

15          For an additional amount for “Detention Trustee”,  
16 \$150,000,000, to remain available until September 30,  
17 2010.

## 18                   OFFICE OF INSPECTOR GENERAL

19          For an additional amount for “Office of Inspector  
20 General”, \$2,000,000, to remain available until September  
21 30, 2010.



## 1 UNITED STATES MARSHALS SERVICE

## 2 SALARIES AND EXPENSES

3 For an additional amount for “Salaries and Ex-  
4 penses”, \$50,000,000, to remain available until September  
5 30, 2010.

## 6 CONSTRUCTION

7 For an additional amount for “Construction”,  
8 \$125,000,000, to remain available until September 30,  
9 2010.

## 10 FEDERAL BUREAU OF INVESTIGATION

## 11 SALARIES AND EXPENSES

12 For an additional amount for “Salaries and Ex-  
13 penses”, \$75,000,000, to remain available until September  
14 30, 2010.

## 15 CONSTRUCTION

16 For an additional amount for “Construction”,  
17 \$400,000,000, to remain available until September 30,  
18 2010.

## 19 FEDERAL PRISON SYSTEM

## 20 BUILDINGS AND FACILITIES

21 For an additional amount for “Federal Prison Sys-  
22 tem, Buildings and Facilities”, \$1,000,000,000, to remain  
23 available until September 30, 2010.

1 STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES

2 OFFICE ON VIOLENCE AGAINST WOMEN

3 VIOLENCE AGAINST WOMEN PREVENTION AND

4 PROSECUTION PROGRAMS

5 For an additional amount for “Violence Against  
6 Women Prevention and Prosecution Programs”,  
7 \$300,000,000 for grants to combat violence against  
8 women, as authorized by part T of the Omnibus Crime  
9 Control and Safe Streets Act of 1968 (42 U.S.C. 3711  
10 et seq.): *Provided*, That, \$50,000,000 shall be transitional  
11 housing assistance grants for victims of domestic violence,  
12 stalking or sexual assault as authorized by section 40299  
13 of the Violent Crime Control and Law Enforcement Act  
14 of 1994 (Public Law 103–322).

15 OFFICE OF JUSTICE PROGRAMS

16 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

17 For an additional amount for “State and Local Law  
18 Enforcement Assistance”, \$1,500,000,000 for the Edward  
19 Byrne Memorial Justice Assistance Grant program as au-  
20 thorized by subpart 1 of part E of title I of the Omnibus  
21 Crime Control and Safe Street Act of 1968 (“1968 Act”),  
22 (except that section 1001(c), and the special rules for  
23 Puerto Rico under section 505(g), of the 1968 Act, shall  
24 not apply for purposes of this Act), to remain available  
25 until September 30, 2010.

1 For an additional amount for “State and Local Law  
 2 Enforcement Assistance”, \$440,000,000 for competitive  
 3 grants to improve the functioning of the criminal justice  
 4 system, to assist victims of crime (other than compensa-  
 5 tion), and youth mentoring grants, to remain available  
 6 until September 30, 2010.

7 For an additional amount for “State and Local Law  
 8 Enforcement Assistance”, \$100,000,000, to remain avail-  
 9 able until September 30, 2010, for competitive grants to  
 10 provide assistance and equipment to local law enforcement  
 11 along the Southern border and in High-Intensity Drug  
 12 Trafficking Areas to combat criminal narcotics activity  
 13 stemming from the Southern border, of which  
 14 \$10,000,000 shall be transferred to “Bureau of Alcohol,  
 15 Tobacco, Firearms and Explosives, Salaries and Ex-  
 16 penses” for the ATF Project Gunrunner.

17 For an additional amount for “State and Local Law  
 18 Enforcement Assistance”, \$300,000,000, to remain avail-  
 19 able until September 30, 2010, for assistance to Indian  
 20 tribes, notwithstanding Public Law 108–199, division B,  
 21 title I, section 112(a)(1) (118 Stat. 62), of which—

22 (1) \$250,000,000 shall be available for grants  
 23 under section 20109 of subtitle A of title II of the  
 24 Violent Crime Control and Law Enforcement Act of  
 25 1994 (Public Law 103–322);

1           (2) \$25,000,000 shall be available for the Trib-  
2       al Courts Initiative; and

3           (3) \$25,000,000 shall be available for tribal al-  
4       cohol and substance abuse drug reduction assistance  
5       grants.

6       For an additional amount for “State and Local Law  
7       Enforcement Assistance”, \$100,000,000, to remain avail-  
8       able until September 30, 2010, to be distributed by the  
9       Office for Victims of Crime in accordance with section  
10      1402(d)(4) of the Victims of Crime Act of 1984 (Public  
11      Law 98–473).

12      For an additional amount for “State and Local Law  
13      Enforcement Assistance”, \$150,000,000, to remain avail-  
14      able until September 30, 2010, for assistance to law en-  
15      forcement in rural areas, to prevent and combat crime,  
16      especially drug-related crime.

17      For an additional amount for “State and Local Law  
18      Enforcement Assistance”, \$50,000,000, to remain avail-  
19      able until September 30, 2010, for Internet Crimes  
20      Against Children (ICAC) initiatives.

21           COMMUNITY ORIENTED POLICING SERVICES

22      For an additional amount for “Community Oriented  
23      Policing Services”, for grants under section 1701 of title  
24      I of the 1968 Omnibus Crime Control and Safe Streets  
25      Act (42 U.S.C. 3796dd) for hiring and rehiring of addi-

1 tional career law enforcement officers under part Q of  
 2 such title, and civilian public safety personnel, notwith-  
 3 standing subsection (i) of such section and notwith-  
 4 standing 42 U.S.C. 3796dd–3(c), \$1,000,000,000, to re-  
 5 main available until September 30, 2010.

6 SALARIES AND EXPENSES

7 For an additional amount, not elsewhere specified in  
 8 this title, for management and administration and over-  
 9 sight of programs within the Office on Violence Against  
 10 Women, the Office of Justice Programs, and the Commu-  
 11 nity Oriented Policing Services Office, \$10,000,000, to re-  
 12 main available until September 30, 2010.

13 SCIENCE

14 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

15 SCIENCE

16 For an additional amount for “Science”,  
 17 \$500,000,000, to remain available until September 30,  
 18 2010.

19 AERONAUTICS

20 For an additional amount for “Aeronautics”,  
 21 \$250,000,000, to remain available until September 30,  
 22 2010.

23 EXPLORATION

24 For an additional amount for “Exploration”,  
 25 \$500,000,000, to remain available until September 30,  
 26 2010.

1 CROSS AGENCY SUPPORT

2 For an additional amount for “Cross Agency Sup-  
3 port”, \$250,000,000, to remain available until September  
4 30, 2010.

5 OFFICE OF INSPECTOR GENERAL

6 For an additional amount for “Office of Inspector  
7 General”, \$2,000,000, to remain available until September  
8 30, 2010.

9 NATIONAL SCIENCE FOUNDATION

10 RESEARCH AND RELATED ACTIVITIES

11 For an additional amount for “Research and Related  
12 Activities”, \$1,200,000,000, to remain available until Sep-  
13 tember 30, 2010.

14 MAJOR RESEARCH EQUIPMENT AND FACILITIES

15 CONSTRUCTION

16 For an additional amount for “Major Research  
17 Equipment and Facilities Construction”, \$150,000,000,  
18 to remain available until September 30, 2010.

19 EDUCATION AND HUMAN RESOURCES

20 For an additional amount for “Education and  
21 Human Resources”, \$50,000,000, to remain available  
22 until September 30, 2010.

23 OFFICE OF INSPECTOR GENERAL

24 For an additional amount for “Office of Inspector  
25 General”, \$2,000,000, to remain available until September  
26 30, 2010.

1           GENERAL PROVISIONS—THIS TITLE

2           SEC. 201. The Assistant Secretary of Commerce for  
3   Communications and Information (Assistant Secretary),  
4   in consultation with the Federal Communications Com-  
5   mission (Commission) (and, with respect to rural areas,  
6   the Secretary of Agriculture), shall establish a national  
7   broadband service development and expansion program in  
8   conjunction with the technology opportunities program,  
9   which shall be referred to the Broadband Technology Op-  
10  portunities Program. The Assistant Secretary shall ensure  
11  that the program complements and enhances and does not  
12  conflict with other Federal broadband initiatives and pro-  
13  grams.

14           (1) The purposes of the program are to—

15                   (A) provide access to broadband service to  
16           citizens residing in unserved areas of the  
17           United States;

18                   (B) provide improved access to broadband  
19           service to citizens residing in underserved areas  
20           of the United States;

21                   (C) provide broadband education, aware-  
22           ness, training, access, equipment, and support  
23           to—

24                           (i) schools, libraries, medical and  
25           healthcare providers, community colleges

1 and other institutions of higher education,  
2 and other community support organiza-  
3 tions and entities to facilitate greater use  
4 of broadband service by or through these  
5 organizations;

6 (ii) organizations and agencies that  
7 provide outreach, access, equipment, and  
8 support services to facilitate greater use of  
9 broadband service by low-income, unem-  
10 ployed, aged, and otherwise vulnerable pop-  
11 ulations; and

12 (iii) job-creating strategic facilities lo-  
13 cated within a State-designated economic  
14 zone, Economic Development District des-  
15 ignated by the Department of Commerce,  
16 Renewal Community or Empowerment  
17 Zone designated by the Department of  
18 Housing and Urban Development, or En-  
19 terprise Community designated by the De-  
20 partment of Agriculture.

21 (D) improve access to, and use of,  
22 broadband service by public safety agencies;  
23 and

24 (E) stimulate the demand for broadband,  
25 economic growth, and job creation.



1           (2) The Assistant Secretary may consult with  
2           the chief executive officer of any State with respect  
3           to—

4                   (A) the identification of areas described in  
5                   subsection (1)(A) or (B) located in that State;  
6                   and

7                   (B) the allocation of grant funds within  
8                   that State for projects in or affecting the State.

9           (3) The Assistant Secretary shall—

10                   (A) establish and implement the grant pro-  
11                   gram as expeditiously as practicable;

12                   (B) ensure that all awards are made before  
13                   the end of fiscal year 2010;

14                   (C) seek such assurances as may be nec-  
15                   essary or appropriate from grantees under the  
16                   program that they will substantially complete  
17                   projects supported by the program in accord-  
18                   ance with project timelines, not to exceed 2  
19                   years following an award; and

20                   (D) report on the status of the program to  
21                   the Committees on Appropriations of the House  
22                   and the Senate, the Committee on Energy and  
23                   Commerce of the House, and the Committee on  
24                   Commerce, Science, and Transportation of the  
25                   Senate, every 90 days.

1           (4) To be eligible for a grant under the pro-  
2       gram an applicant shall—

3           (A) be a State or political subdivision  
4       thereof, a nonprofit foundation, corporation, in-  
5       stitution or association, Indian tribe, Native  
6       Hawaiian organization, or other non-govern-  
7       mental entity in partnership with a State or po-  
8       litical subdivision thereof, Indian tribe, or Na-  
9       tive Hawaiian organization if the Assistant Sec-  
10      retary determines the partnership consistent  
11      with the purposes this section;

12          (B) submit an application, at such time, in  
13      such form, and containing such information as  
14      the Assistant Secretary may require;

15          (C) provide a detailed explanation of how  
16      any amount received under the program will be  
17      used to carry out the purposes of this section  
18      in an efficient and expeditious manner, includ-  
19      ing a demonstration that the project would not  
20      have been implemented during the grant period  
21      without Federal grant assistance;

22          (D) demonstrate, to the satisfaction of the  
23      Assistant Secretary, that it is capable of car-  
24      rying out the project or function to which the  
25      application relates in a competent manner in

1 compliance with all applicable Federal, State,  
2 and local laws;

3 (E) demonstrate, to the satisfaction of the  
4 Assistant Secretary, that it will appropriate (if  
5 the applicant is a State or local government  
6 agency) or otherwise unconditionally obligate,  
7 from non-Federal sources, funds required to  
8 meet the requirements of paragraph (5);

9 (F) disclose to the Assistant Secretary the  
10 source and amount of other Federal or State  
11 funding sources from which the applicant re-  
12 ceives, or has applied for, funding for activities  
13 or projects to which the application relates; and

14 (G) provide such assurances and proce-  
15 dures as the Assistant Secretary may require to  
16 ensure that grant funds are used and accounted  
17 for in an appropriate manner.

18 (5) The Federal share of any project may not  
19 exceed 80 percent, except that the Assistant Sec-  
20 retary may increase the Federal share of a project  
21 above 80 percent if—

22 (A) the applicant petitions the Assistant  
23 Secretary for a waiver; and

24 (B) the Assistant Secretary determines  
25 that the petition demonstrates financial need.

1           (6) The Assistant Secretary may make competi-  
2       tive grants under the program to—

3           (A) acquire equipment, instrumentation,  
4       networking capability, hardware and software,  
5       digital network technology, and infrastructure  
6       for broadband services;

7           (B) construct and deploy broadband serv-  
8       ice related infrastructure;

9           (C) ensure access to broadband service by  
10      community anchor institutions;

11          (D) facilitate access to broadband service  
12      by low-income, unemployed, aged, and otherwise  
13      vulnerable populations in order to provide edu-  
14      cational and employment opportunities to mem-  
15      bers of such populations;

16          (E) construct and deploy broadband facili-  
17      ties that improve public safety broadband com-  
18      munications services; and

19          (F) undertake such other projects and ac-  
20      tivities as the Assistant Secretary finds to be  
21      consistent with the purposes for which the pro-  
22      gram is established.

23      (7) The Assistant Secretary—

24          (A) shall require any entity receiving a  
25      grant pursuant to this section to report quar-

1           terly, in a format specified by the Assistant  
2           Secretary, on such entity's use of the assistance  
3           and progress fulfilling the objectives for which  
4           such funds were granted, and the Assistant  
5           Secretary shall make these reports available to  
6           the public;

7                 (B) may establish additional reporting and  
8           information requirements for any recipient of  
9           any assistance made available pursuant to this  
10          section;

11                (C) shall establish appropriate mechanisms  
12          to ensure appropriate use and compliance with  
13          all terms of any use of funds made available  
14          pursuant to this section;

15                (D) may, in addition to other authority  
16          under applicable law, deobligate awards to  
17          grantees that demonstrate an insufficient level  
18          of performance, or wasteful or fraudulent  
19          spending, as defined in advance by the Assist-  
20          ant Secretary, and award these funds competi-  
21          tively to new or existing applicants consistent  
22          with this section; and

23                (E) shall create and maintain a fully  
24          searchable database, accessible on the Internet  
25          at no cost to the public, that contains at least

1           the name of each entity receiving funds made  
2           available pursuant to this section, the purpose  
3           for which such entity is receiving such funds,  
4           each quarterly report submitted by the entity  
5           pursuant to this section, and such other infor-  
6           mation sufficient to allow the public to under-  
7           stand and monitor grants awarded under the  
8           program.

9           (8) Concurrent with the issuance of the Request  
10          for Proposal for grant applications pursuant to this  
11          section, the Assistant Secretary shall, in coordina-  
12          tion with the Federal Communications Commission,  
13          publish the non-discrimination and network inter-  
14          connection obligations that shall be contractual con-  
15          ditions of grants awarded under this section.

16          (9) Within 1 year after the date of enactment  
17          of this Act, the Commission shall complete a rule-  
18          making to develop a national broadband plan. In de-  
19          veloping the plan, the Commission shall—

20                 (A) consider the most effective and effi-  
21                 cient national strategy for ensuring that all  
22                 Americans have access to, and take advantage  
23                 of, advanced broadband services;

1 (B) have access to data provided to other  
2 Government agencies under the Broadband  
3 Data Improvement Act (47 U.S.C. 1301 note);

4 (C) evaluate the status of deployments of  
5 broadband service, including the progress of  
6 projects supported by the grants made pursuant  
7 to this section; and

8 (D) develop recommendations for achieving  
9 the goal of nationally available broadband serv-  
10 ice for the United States and for promoting  
11 broadband adoption nationwide.

12 (10) The Assistant Secretary shall develop and  
13 maintain a comprehensive nationwide inventory map  
14 of existing broadband service capability and avail-  
15 ability in the United States that entities and depicts  
16 the geographic extent to which broadband service ca-  
17 pability is deployed and available from a commercial  
18 provider or public provider throughout each State:  
19 *Provided*, That not later than 2 years after the date  
20 of the enactment of the Act, the Assistant Secretary  
21 shall make the broadband inventory map developed  
22 and maintained pursuant to this section accessible to  
23 the public.

24 SEC. 202. The Assistant Secretary of Commerce for  
25 Communications and Information may reissue any coupon

1 issued under section 3005(a) of the Digital Television  
 2 Transition and Public Safety Act of 2005 that has expired  
 3 before use, and shall cancel any unredeemed coupon re-  
 4 ported as lost and may issue a replacement coupon for  
 5 the lost coupon.

## 6 TITLE III—DEPARTMENT OF DEFENSE

### 7 OPERATION AND MAINTENANCE

#### 8 OPERATION AND MAINTENANCE, ARMY

9 For an additional amount for “Operation and Main-  
 10 tenance, Army”, \$1,169,291,000, to remain available for  
 11 obligation until September 30, 2010.

#### 12 OPERATION AND MAINTENANCE, NAVY

13 For an additional amount for “Operation and Main-  
 14 tenance, Navy”, \$571,843,000, to remain available for ob-  
 15 ligation until September 30, 2010.

#### 16 OPERATION AND MAINTENANCE, MARINE CORPS

17 For an additional amount for “Operation and Main-  
 18 tenance, Marine Corps”, \$112,167,000, to remain avail-  
 19 able for obligation until September 30, 2010.

#### 20 OPERATION AND MAINTENANCE, AIR FORCE

21 For an additional amount for “Operation and Main-  
 22 tenance, Air Force”, \$927,113,000, to remain available  
 23 for obligation until September 30, 2010.





1 OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

2 For an additional amount for “Operation and Main-  
3 tenance, Air National Guard”, \$20,922,000, to remain  
4 available for obligation until September 30, 2010.

5 PROCUREMENT

6 DEFENSE PRODUCTION ACT PURCHASES

7 For an additional amount for “Defense Production  
8 Act Purchases”, \$100,000,000, to remain available for ob-  
9 ligation until September 30, 2010.

10 RESEARCH, DEVELOPMENT, TEST AND

11 EVALUATION

12 RESEARCH, DEVELOPMENT, TEST AND EVALUATION,

13 DEFENSE-WIDE

14 For an additional amount for “Research, Develop-  
15 ment, Test and Evaluation, Defense-Wide”,  
16 \$200,000,000, to remain available for obligation until Sep-  
17 tember 30, 2010.

18 OTHER DEPARTMENT OF DEFENSE PROGRAMS

19 DEFENSE HEALTH PROGRAM

20 For an additional amount for “Defense Health Pro-  
21 gram”, \$250,000,000 for operation and maintenance, to  
22 remain available for obligation until September 30, 2010.

1                   OFFICE OF THE INSPECTOR GENERAL

2           For an additional amount for “Office of the Inspector  
3 General”, \$12,000,000 for operation and maintenance, to  
4 remain available for obligation until September 30, 2010.

5                   TITLE IV—ENERGY AND WATER

6                   DEVELOPMENT

7                   DEPARTMENT OF DEFENSE—CIVIL

8                   DEPARTMENT OF THE ARMY

9                   CORPS OF ENGINEERS—CIVIL

10                  INVESTIGATIONS

11          For an additional amount for “Investigations” for ex-  
12 penses necessary where authorized by law for the collec-  
13 tion and study of basic information pertaining to river and  
14 harbor, flood and storm damage reduction, shore protec-  
15 tion, aquatic ecosystem restoration, and related needs; for  
16 surveys and detailed studies, and plans and specifications  
17 of proposed river and harbor, flood and storm damage re-  
18 duction, shore protection, and aquatic ecosystem restora-  
19 tion projects and related efforts prior to construction; for  
20 restudy of authorized projects; and for miscellaneous in-  
21 vestigations and, when authorized by law, surveys and de-  
22 tailed studies, and plans and specifications of projects  
23 prior to construction, \$25,000,000: *Provided*, That funds  
24 provided under this heading in this title shall only be used  
25 for programs, projects or activities that heretofore or here-

1 after receive funds provided in Acts making appropriations  
 2 available for Energy and Water Development: *Provided*  
 3 *further*, That funds provided under this heading in this  
 4 title shall be used for programs, projects or activities or  
 5 elements of programs, projects or activities that can be  
 6 completed within the funds made available in that account  
 7 and that will not require new budget authority to com-  
 8 plete: *Provided further*, That for projects that are being  
 9 completed with funds appropriated in this Act that would  
 10 otherwise be expired for obligation, expired funds appro-  
 11 priated in this Act may be used to pay the cost of associ-  
 12 ated supervision, inspection, over engineering and design  
 13 on those projects and on subsequent claims, if any: *Pro-*  
 14 *vided further*, That the Secretary shall have unlimited re-  
 15 programming authority for these funds provided under  
 16 this heading.

#### 17 CONSTRUCTION

18 For an additional amount for “Construction” for ex-  
 19 penses necessary for the construction of river and harbor,  
 20 flood and storm damage reduction, shore protection,  
 21 aquatic ecosystem restoration, and related projects au-  
 22 thorized by law, \$2,000,000,000, of which such sums as  
 23 are necessary to cover the Federal share of construction  
 24 costs for facilities under the Dredged Material Disposal  
 25 Facilities program shall be derived from the Harbor Main-  
 26 tenance Trust Fund as authorized by Public Law 104—

1 303: *Provided*, That not less than \$200,000,000 of the  
2 funds provided shall be for water-related environmental in-  
3 frastructure assistance: *Provided further*, That section 102  
4 of Public Law 109–103 (33 U.S.C. 2221) shall not apply  
5 to funds provided in this title: *Provided further*, That not-  
6 withstanding any other provision of law, no funds shall  
7 be drawn from the Inland Waterways Trust Fund, as au-  
8 thorized in Public Law 99–662: *Provided further*, That  
9 funds provided under this heading in this title shall only  
10 be used for programs, projects or activities that heretofore  
11 or hereafter receive funds provided in Acts making appro-  
12 priations available for Energy and Water Development:  
13 *Provided further*, That funds provided under this heading  
14 in this title shall be used for programs, projects or activi-  
15 ties or elements of programs, projects or activities that  
16 can be completed within the funds made available in that  
17 account and that will not require new budget authority  
18 to complete: *Provided further*, That the limitation con-  
19 cerning total project costs in section 902 of the Water Re-  
20 sources Development Act of 1986, as amended (33 U.S.C.  
21 2280), shall not apply during fiscal year 2009 to any  
22 project that received funds provided in this title: *Provided*  
23 *further*, That funds appropriated under this heading may  
24 be used by the Secretary of the Army, acting through the  
25 Chief of Engineers, to undertake work authorized to be

1 carried out in accordance with section 14 of the Flood  
 2 Control Act of 1946 (33 U.S.C. 701r); section 205 of the  
 3 Flood Control Act of 1948 (33 U.S.C. 701s); section 206  
 4 of the Water Resources Development Act of 1996 (33  
 5 U.S.C. 2330); or section 1135 of the Water Resources De-  
 6 velopment Act of 1986 (33 U.S.C. 2309a), notwith-  
 7 standing the program cost limitations set forth in those  
 8 sections: *Provided further*, That for projects that are being  
 9 completed with funds appropriated in this Act that would  
 10 otherwise be expired for obligation, expired funds appro-  
 11 priated in this Act may be used to pay the cost of associ-  
 12 ated supervision, inspection, over engineering and design  
 13 on those projects and on subsequent claims, if any: *Pro-*  
 14 *vided further*, That the Secretary shall have unlimited re-  
 15 programming authority for these funds provided under  
 16 this heading.

17                   MISSISSIPPI RIVER AND TRIBUTARIES

18       For an additional amount for “Mississippi River and  
 19 Tributaries” for expenses necessary for flood damage re-  
 20 duction projects and related efforts as authorized by law,  
 21 \$500,000,000, of which such sums as are necessary to  
 22 cover the Federal share of operation and maintenance  
 23 costs for inland harbors shall be derived from the Harbor  
 24 Maintenance Trust Fund, pursuant to Public Law 99–  
 25 662: *Provided*, That funds provided under this heading in  
 26 this title shall only be used for programs, projects or ac-

1 tivities that heretofore or hereafter receive funds provided  
2 in Acts making appropriations available for Energy and  
3 Water Development: *Provided further*, That funds pro-  
4 vided under this heading in this title shall be used for pro-  
5 grams, projects or activities or elements of programs,  
6 projects or activities that can be completed within the  
7 funds made available in that account and that will not re-  
8 quire new budget authority to complete: *Provided further*,  
9 That the limitation concerning total project costs in sec-  
10 tion 902 of the Water Resources Development Act of  
11 1986, as amended (33 U.S.C. 2280), shall not apply dur-  
12 ing fiscal year 2009 to any project that received funds pro-  
13 vided in this title: *Provided further*, That for projects that  
14 are being completed with funds appropriated in this Act  
15 that would otherwise be expired for obligation, expired  
16 funds appropriated in this Act may be used to pay the  
17 cost of associated supervision, inspection, over engineering  
18 and design on those projects and on subsequent claims,  
19 if any: *Provided further*, That the Secretary shall have un-  
20 limited reprogramming authority for these funds provided  
21 under this heading.

#### 22 OPERATION AND MAINTENANCE

23 For an additional amount for “Operation and Main-  
24 tenance” for expenses necessary for the operation, mainte-  
25 nance, and care of existing river and harbor, flood and  
26 storm damage reduction, aquatic ecosystem restoration,

1 and related projects authorized by law, and for surveys  
2 and charting of northern and northwestern lakes and con-  
3 necting waters, clearing and straightening channels, and  
4 removal of obstructions to navigation, \$1,900,000,000, of  
5 which such sums as are necessary to cover the Federal  
6 share of operation and maintenance costs for coastal har-  
7 bors and channels, and inland harbors shall be derived  
8 from the Harbor Maintenance Trust Fund, pursuant to  
9 Public Law 99-662; and of which such sums as become  
10 available under section 217 of the Water Resources Devel-  
11 opment Act of 1996, Public Law 104-303, shall be used  
12 to cover the cost of operation and maintenance of the  
13 dredged material disposal facilities for which fees have  
14 been collected: *Provided*, That funds provided under this  
15 heading in this title shall only be used for programs,  
16 projects or activities that heretofore or hereafter receive  
17 funds provided in Acts making appropriations available for  
18 Energy and Water Development: *Provided further*, That  
19 funds provided under this heading in this title shall be  
20 used for programs, projects or activities or elements of  
21 programs, projects or activities that can be completed  
22 within the funds made available in that account and that  
23 will not require new budget authority to complete: *Pro-*  
24 *vided further*, That \$90,000,000 of the funds provided  
25 under this heading shall be used for activities described



1 in section 9004 of Public Law 110–114: *Provided further*,  
 2 That section 9006 of Public Law 110–114 shall not apply  
 3 to funds provided in this title: *Provided further*, That for  
 4 projects that are being completed with funds appropriated  
 5 in this Act that would otherwise be expired for obligation,  
 6 expired funds appropriated in this Act may be used to pay  
 7 the cost of associated supervision, inspection, over engi-  
 8 neering and design on those projects and on subsequent  
 9 claims, if any: *Provided further*, That the Secretary shall  
 10 have unlimited reprogramming authority for these funds  
 11 provided under this heading.

#### 12 REGULATORY PROGRAM

13 For an additional amount for “Regulatory Program”  
 14 for expenses necessary for administration of laws per-  
 15 taining to regulation of navigable waters and wetlands,  
 16 \$25,000,000 is provided.

#### 17 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

18 For an additional amount for “Formerly Utilized  
 19 Sites Remedial Action Program” for expenses necessary  
 20 to clean up contamination from sites in the United States  
 21 resulting from work performed as part of the Nation’s  
 22 early atomic energy program, \$100,000,000: *Provided fur-*  
 23 *ther*, That funds provided under this heading in this title  
 24 shall be used for programs, projects or activities or ele-  
 25 ments of programs, projects or activities that can be com-  
 26 pleted within the funds made available in that account and

1 that will not require new budget authority to complete:  
 2 *Provided further*, That for projects that are being com-  
 3 pleted with funds appropriated in this Act that would oth-  
 4 erwise be expired for obligation, expired funds appro-  
 5 priated in this Act may be used to pay the cost of associ-  
 6 ated supervision, inspection, over engineering and design  
 7 on those projects and on subsequent claims, if any: *Pro-*  
 8 *vided further*, That the Secretary shall have unlimited re-  
 9 programming authority for these funds provided under  
 10 this heading.

11 FLOOD CONTROL AND COASTAL EMERGENCIES

12 For an additional amount for “Flood Control and  
 13 Coastal Emergencies” for expenses necessary for pre-  
 14 placement of materials and equipment, advance measures  
 15 and other activities authorized by law, \$50,000,000 is pro-  
 16 vided.

17 DEPARTMENT OF THE INTERIOR

18 BUREAU OF RECLAMATION

19 WATER AND RELATED RESOURCES

20 For an additional amount for management, develop-  
 21 ment, and restoration of water and related natural re-  
 22 sources and for related activities, including the operation,  
 23 maintenance, and rehabilitation of reclamation and other  
 24 facilities, participation in fulfilling related Federal respon-  
 25 sibilities to Native Americans, and related grants to, and  
 26 cooperative and other agreements with, State and local

1 governments, federally recognized Indian tribes, and oth-  
2 ers, \$1,400,000,000; of which such amounts as may be  
3 necessary may be advanced to the Colorado River Dam  
4 Fund: *Provided*, That of the total appropriated, the  
5 amount for program activities that can be financed by the  
6 Reclamation Fund or the Bureau of Reclamation special  
7 fee account established by 16 U.S.C. 460l–6a(i) shall be  
8 derived from that Fund or account: *Provided further*, That  
9 funds contributed under 43 U.S.C. 395 are available until  
10 expended for the purposes for which contributed: *Provided*  
11 *further*, That funds advanced under 43 U.S.C. 397a shall  
12 be credited to this account and are available until ex-  
13 pended for the same purposes as the sums appropriated  
14 under this heading: *Provided further*, That funds provided  
15 under this heading in this title shall only be used for pro-  
16 grams, projects or activities that heretofore or hereafter  
17 receive funds provided in Acts making appropriations  
18 available for Energy and Water Development: *Provided*  
19 *further*, That funds provided in this Act shall be used for  
20 elements of projects, programs or activities that can be  
21 completed within these funding amounts and not create  
22 budgetary obligations in future fiscal years: *Provided fur-*  
23 *ther*, That \$50,000,000 of the funds provided under this  
24 heading may be transferred to the Department of the Inte-  
25 rior for programs, projects and activities authorized by the

1 Central Utah Project Completion Act (titles II–V of Public  
 2 Law 102–575): *Provided further*, That \$50,000,000 of the  
 3 funds provided under this heading may be used for pro-  
 4 grams, projects, and activities authorized by the California  
 5 Bay-Delta Restoration Act (Public Law 108–361): *Pro-  
 6 vided further*, That not less than \$60,000,000 of the funds  
 7 provided under this heading shall be used for rural water  
 8 projects and shall be expended primarily on water intake  
 9 and treatment facilities of such projects: *Provided further*,  
 10 That not less than \$10,000,000 of the funds provided  
 11 under this heading shall be used for a bureau-wide inspec-  
 12 tion of canals program in urbanized areas: *Provided fur-  
 13 ther*, That not less than \$110,000,000 of the funds pro-  
 14 vided under this heading shall be used for water reclama-  
 15 tion and reuse projects (title 16 of Public Law 102–575):  
 16 *Provided further*, That the costs of reimbursable activities,  
 17 other than for maintenance and rehabilitation, carried out  
 18 with funds provided in this Act shall be repaid pursuant  
 19 to existing authorities and agreements: *Provided further*,  
 20 That the costs of maintenance and rehabilitation activities  
 21 carried out with funds provided in this Act shall be repaid  
 22 pursuant to existing authority, except the length of repay-  
 23 ment period shall be determined on needs-based criteria  
 24 to be established and adopted by the Commissioner, but  
 25 in no case shall the repayment period exceed 25 years:

1 *Provided further*, That for projects that are being com-  
 2 pleted with funds appropriated in this Act that would oth-  
 3 erwise be expired for obligation, expired funds appro-  
 4 priated in this Act may be used to pay the cost of associ-  
 5 ated supervision, inspection, over engineering and design  
 6 on those projects and on subsequent claims, if any: *Pro-*  
 7 *vided further*, That the Secretary shall have unlimited re-  
 8 programming authority for these funds provided under  
 9 this heading.

## 10 DEPARTMENT OF ENERGY

### 11 ENERGY PROGRAMS

#### 12 ENERGY EFFICIENCY AND RENEWABLE ENERGY

13 For an additional amount for “Energy Efficiency and  
 14 Renewable Energy”, \$14,398,000,000, for necessary ex-  
 15 penses, to remain available until September 30, 2010: *Pro-*  
 16 *vided*, That \$4,200,000,000 shall be available for Energy  
 17 Efficiency and Conservation Block Grants for implementa-  
 18 tion of programs authorized under subtitle E of title V  
 19 of the Energy Independence and Security Act of 2007 (42  
 20 U.S.C. 17151 et seq.), of which \$2,100,000,000 is avail-  
 21 able through the formula in subtitle E: *Provided further*,  
 22 That the remaining \$2,100,000,000 shall be awarded on  
 23 a competitive basis only to competitive grant applicants  
 24 from States in which the Governor certifies to the Sec-  
 25 retary of Energy that the applicable State regulatory au-

1   thority will implement the integrated resource planning  
2   and rate design modifications standards required to be  
3   considered under paragraphs (16) and (17) of section  
4   111(d) of the Public Utility Regulatory Policies Act of  
5   1978 (16 U.S.C. 2621(d)(16) and (17)); and the Governor  
6   will take all actions within his or her authority to ensure  
7   that the State, or the applicable units of local government  
8   that have authority to adopt building codes, will imple-  
9   ment—

10           (A) building energy codes for residential build-  
11       ings that the Secretary determines are likely to meet  
12       or exceed the 2009 International Energy Conserva-  
13       tion Code;

14           (B) building energy codes for commercial build-  
15       ings that the Secretary determines are likely to meet  
16       or exceed the ANSI/ASHRAE/IESNA Standard  
17       90.1–2007; and

18           (C) a plan for implementing and enforcing the  
19       building energy codes described in subparagraphs  
20       (A) and (B) that is likely to ensure that at least 90  
21       percent of the new and renovated residential and  
22       commercial building space will meet the standards  
23       within 8 years after the date of enactment of this  
24       Act:

1 *Provided further*, That \$2,000,000,000 shall be available  
 2 for grants for the manufacturing of advanced batteries  
 3 and components and the Secretary shall provide facility  
 4 funding awards under this section to manufacturers of ad-  
 5 vanced battery systems and vehicle batteries that are pro-  
 6 duced in the United States, including advanced lithium ion  
 7 batteries, hybrid electrical systems, component manufac-  
 8 turers, and software designers: *Provided further*, That not-  
 9 withstanding section 3304 of title 5, United States Code,  
 10 and without regard to the provisions of sections 3309  
 11 through 3318 of such title 5, the Secretary of Energy,  
 12 upon a determination that there is a severe shortage of  
 13 candidates or a critical hiring need for particular posi-  
 14 tions, may from within the funds provided, recruit and di-  
 15 rectly appoint highly qualified individuals into the com-  
 16 petitive service: *Provided further*, That such authority  
 17 shall not apply to positions in the Excepted Service or the  
 18 Senior Executive Service: *Provided further*, That any ac-  
 19 tion authorized herein shall be consistent with the merit  
 20 principles of section 2301 of such title 5, and the Depart-  
 21 ment shall comply with the public notice requirements of  
 22 section 3327 of such title 5.

## 23 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

24 For an additional amount for “Electricity Delivery  
 25 and Energy Reliability”, \$4,500,000,000, for necessary

1 expenses, to remain available until September 30, 2010:  
2 *Provided*, That \$100,000,000 shall be available for worker  
3 training activities: *Provided further*, That notwithstanding  
4 section 3304 of title 5, United States Code, and without  
5 regard to the provisions of sections 3309 through 3318  
6 of such title 5, the Secretary of Energy, upon a determina-  
7 tion that there is a severe shortage of candidates or a crit-  
8 ical hiring need for particular positions, may from within  
9 the funds provided, recruit and directly appoint highly  
10 qualified individuals into the competitive service: *Provided*  
11 *further*, That such authority shall not apply to positions  
12 in the Excepted Service or the Senior Executive Service:  
13 *Provided further*, That any action authorized herein shall  
14 be consistent with the merit principles of section 2301 of  
15 such title 5, and the Department shall comply with the  
16 public notice requirements of section 3327 of such title  
17 5: *Provided*, That for the purpose of facilitating the devel-  
18 opment of regional transmission plans, the Office of Elec-  
19 tricity Delivery and Energy Reliability within the Depart-  
20 ment of Energy is provided \$80,000,000 within the avail-  
21 able funds to conduct a resource assessment and an anal-  
22 ysis of future demand and transmission requirements:  
23 *Provided further*, That the Office of Electricity Delivery  
24 and Energy Reliability will provide technical assistance to  
25 the North American Electric Reliability Corporation, the



1 regional reliability entities, the States, and other trans-  
 2 mission owners and operators for the formation of inter-  
 3 connection-based transmission plans for the Eastern and  
 4 Western Interconnections and ERCOT: *Provided further*,  
 5 That such assistance may include modeling, support to re-  
 6 gions and States for the development of coordinated State  
 7 electricity policies, programs, laws, and regulations: *Pro-*  
 8 *vided further*, That \$10,000,000 is provided to implement  
 9 section 1305 of Public Law 110–140.

#### 10 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

11 For an additional amount for “Fossil Energy Re-  
 12 search and Development”, \$4,600,000,000, to remain  
 13 available until September 30, 2010: *Provided*, That  
 14 \$2,000,000,000 is available for one or more near zero  
 15 emissions powerplant(s): *Provided further*, \$1,000,000,000  
 16 is available for selections under the Department’s Clean  
 17 Coal Power Initiative Round III Funding Opportunity An-  
 18 nouncement; notwithstanding the mandatory eligibility re-  
 19 quirements of the Funding Opportunity Announcement,  
 20 the Department shall consider applications that utilize pe-  
 21 troleum coke for some or all of the project’s fuel input:  
 22 *Provided further*, \$1,520,000,000 is available for a com-  
 23 petitive solicitation pursuant to section 703 of Public Law  
 24 110–140 for projects that demonstrate carbon capture  
 25 from industrial sources: *Provided further*, That awards for

1 such projects may include plant efficiency improvements  
 2 for integration with carbon capture technology.

### 3 NON-DEFENSE ENVIRONMENTAL CLEANUP

4 For an additional amount for “Non-Defense Environ-  
 5 mental Cleanup”, \$483,000,000, to remain available until  
 6 September 30, 2010.

### 7 URANIUM ENRICHMENT DECONTAMINATION AND

### 8 DECOMMISSIONING FUND

9 For an additional amount for “Uranium Enrichment  
 10 Decontamination and Decommissioning Fund”,  
 11 \$390,000,000, to remain available until September 30,  
 12 2010, of which \$70,000,000 shall be available in accord-  
 13 ance with title X, subtitle A of the Energy Policy Act of  
 14 1992.

### 15 SCIENCE

16 For an additional amount for “Science”,  
 17 \$430,000,000, to remain available until September 30,  
 18 2010.

### 19 TITLE 17—INNOVATIVE TECHNOLOGY LOAN

### 20 GUARANTEE PROGRAM

21 Subject to section 502 of the Congressional Budget  
 22 Act of 1974, commitments to guarantee loans under sec-  
 23 tion 1702(b)(2) of the Energy Policy Act of 2005, shall  
 24 not exceed a total principal amount of \$50,000,000,000  
 25 for eligible projects, to remain available until committed:

1 *Provided*, That these amounts are in addition to any au-  
2 thority provided elsewhere in this Act and this and pre-  
3 vious fiscal years: *Provided further*, That such sums as are  
4 derived from amounts received from borrowers pursuant  
5 to section 1702(b)(2) of the Energy Policy Act of 2005  
6 under this heading in this and prior Acts, shall be collected  
7 in accordance with section 502(7) of the Congressional  
8 Budget Act of 1974: *Provided further*, That the source of  
9 such payment received from borrowers is not a loan or  
10 other debt obligation that is guaranteed by the Federal  
11 Government: *Provided further*, That pursuant to section  
12 1702(b)(2) of the Energy Policy Act of 2005, no appro-  
13 priations are available to pay the subsidy cost of such  
14 guarantees: *Provided further*, That none of the loan guar-  
15 antee authority made available in this Act shall be avail-  
16 able for commitments to guarantee loans under section  
17 1702(b)(2) of the Energy Policy Act of 2005 for any  
18 projects where funds, personnel, or property (tangible or  
19 intangible) of any Federal agency, instrumentality, per-  
20 sonnel or affiliated entity are expected to be used (directly  
21 or indirectly) through acquisitions, contracts, demonstra-  
22 tions, exchanges, grants, incentives, leases, procurements,  
23 sales, other transaction authority, or other arrangements,  
24 to support the project or to obtain goods or services from  
25 the project: *Provided further*, That none of the loan guar-

1 antee authority made available in this Act shall be avail-  
 2 able under section 1702(b)(2) of the Energy Policy Act  
 3 of 2005 for any project unless the Director of the Office  
 4 of Management and Budget has certified in advance in  
 5 writing that the loan guarantee and the project comply  
 6 with the provisions under this title: *Provided further*, That  
 7 for an additional amount for the cost of guaranteed loans  
 8 authorized by section 1702(b)(1) and section 1705 of the  
 9 Energy Policy Act of 2005, \$9,500,000,000, available  
 10 until expended, to pay the costs of guarantees made under  
 11 this section: *Provided further*, That of the amount pro-  
 12 vided for Title XVII, \$15,000,000 shall be used for admin-  
 13 istrative expenses in carrying out the guaranteed loan pro-  
 14 gram.

#### 15 OFFICE OF THE INSPECTOR GENERAL

16 For necessary expenses of the Office of the Inspector  
 17 General in carrying out the provisions of the Inspector  
 18 General Act of 1978, as amended, \$5,000,000, to remain  
 19 available until expended.

#### 20 ATOMIC ENERGY DEFENSE ACTIVITIES

#### 21 NATIONAL NUCLEAR SECURITY ADMINISTRATION

#### 22 WEAPONS ACTIVITIES

23 For an additional amount for weapons activities,  
 24 \$1,000,000,000, to remain available until September 30,  
 25 2010.

## 1 ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

## 2 DEFENSE ENVIRONMENTAL CLEANUP

3 For an additional amount for “Defense Environ-  
 4 mental Cleanup”, \$5,527,000,000, to remain available  
 5 until September 30, 2010.

6 CONSTRUCTION, REHABILITATION, OPERATION, AND  
 7 MAINTENANCE, WESTERN AREA POWER ADMINIS-  
 8 TRATION

9 For carrying out the functions authorized by title III,  
 10 section 302(a)(1)(E) of the Act of August 4, 1977 (42  
 11 U.S.C. 7152), and other related activities including con-  
 12 servation and renewable resources programs as author-  
 13 ized, \$10,000,000, to remain available until expended:  
 14 *Provided*, That the Administrator shall establish such per-  
 15 sonnel staffing levels as he deems necessary to economi-  
 16 cally and efficiently complete the activities pursued under  
 17 the authority granted by section 402 of this Act: *Provided*  
 18 *further*, That this appropriation is non-reimbursable.

## 19 GENERAL PROVISIONS—THIS TITLE

20 SEC. 401. BONNEVILLE POWER ADMINISTRATION  
 21 BORROWING AUTHORITY. For the purposes of providing  
 22 funds to assist in financing the construction, acquisition,  
 23 and replacement of the transmission system of the Bonne-  
 24 ville Power Administration and to implement the authority  
 25 of the Administrator of the Bonneville Power Administra-

tion under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.), an additional \$3,250,000,000 in borrowing authority is made available under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.), to remain outstanding at any time.

SEC. 402. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY. The Hoover Power Plant Act of 1984 (Public Law 98–381) is amended by adding at the end the following:

## **“TITLE III—BORROWING AUTHORITY**

**“SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.**

“(a) DEFINITIONS.—In this section:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Western Area Power Administration.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the Treasury.

“(b) AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

1           “(A) the Western Area Power Administra-  
2           tion may borrow funds from the Treasury; and

3           “(B) the Secretary shall, without further  
4           appropriation and without fiscal year limitation,  
5           loan to the Western Area Power Administra-  
6           tion, on such terms as may be fixed by the Ad-  
7           ministrator and the Secretary, such sums (not  
8           to exceed, in the aggregate (including deferred  
9           interest), \$3,250,000,000 in outstanding repay-  
10          able balances at any one time) as, in the judg-  
11          ment of the Administrator, are from time to  
12          time required for the purpose of—

13               “(i) constructing, financing, facili-  
14               tating, planning, operating, maintaining,  
15               or studying construction of new or up-  
16               graded electric power transmission lines  
17               and related facilities with at least one ter-  
18               minus within the area served by the West-  
19               ern Area Power Administration; and

20               “(ii) delivering or facilitating the de-  
21               livery of power generated by renewable en-  
22               ergy resources constructed or reasonably  
23               expected to be constructed after the date  
24               of enactment of this section.

1           “(2) INTEREST.—The rate of interest to be  
2 charged in connection with any loan made pursuant  
3 to this subsection shall be fixed by the Secretary,  
4 taking into consideration market yields on out-  
5 standing marketable obligations of the United States  
6 of comparable maturities as of the date of the loan.

7           “(3) REFINANCING.—The Western Area Power  
8 Administration may refinance loans taken pursuant  
9 to this section within the Treasury.

10           “(4) PARTICIPATION.—The Administrator may  
11 permit other entities to participate in the financing,  
12 construction and ownership projects financed under  
13 this section.

14           “(5) CONGRESSIONAL REVIEW OF DISBURSE-  
15 MENT.—Effective upon the date of enactment of this  
16 section, the Administrator shall have the authority  
17 to have utilized \$1,750,000,000 at any one time. If  
18 the Administrator seeks to borrow funds above  
19 \$1,750,000,000, the funds will be disbursed unless  
20 there is enacted, within 90 calendar days of the first  
21 such request, a joint resolution that rescinds the re-  
22 mainder of the balance of the borrowing authority  
23 provided in this section.

24           “(c) TRANSMISSION LINE AND RELATED FACILITY  
25 PROJECTS.—



1           “(1) IN GENERAL.—For repayment purposes,  
2           each transmission line and related facility project in  
3           which the Western Area Power Administration par-  
4           ticipates pursuant to this section shall be treated as  
5           separate and distinct from—

6                   “(A) each other such project; and

7                   “(B) all other Western Area Power Admin-  
8           istration power and transmission facilities.

9           “(2) PROCEEDS.—The Western Area Power  
10          Administration shall apply the proceeds from the use  
11          of the transmission capacity from an individual  
12          project under this section to the repayment of the  
13          principal and interest of the loan from the Treasury  
14          attributable to that project, after reserving such  
15          funds as the Western Area Power Administration  
16          determines are necessary—

17                   “(A) to pay for any ancillary services that  
18          are provided; and

19                   “(B) to meet the costs of operating and  
20          maintaining the new project from which the  
21          revenues are derived.

22          “(3) SOURCE OF REVENUE.—Revenue from the  
23          use of projects under this section shall be the only  
24          source of revenue for—

1           “(A) repayment of the associated loan for  
2           the project; and

3           “(B) payment of expenses for ancillary  
4           services and operation and maintenance.

5           “(4) LIMITATION ON AUTHORITY.—Nothing in  
6           this section confers on the Administrator any addi-  
7           tional authority or obligation to provide ancillary  
8           services to users of transmission facilities developed  
9           under this section.

10          “(5) TREATMENT OF CERTAIN REVENUES.—  
11          Revenue from ancillary services provided by existing  
12          Federal power systems to users of transmission  
13          projects funded pursuant to this section shall be  
14          treated as revenue to the existing power system that  
15          provided the ancillary services.

16          “(d) CERTIFICATION.—

17               “(1) IN GENERAL.—For each project in which  
18               the Western Area Power Administration participates  
19               pursuant to this section, the Administrator shall cer-  
20               tify, prior to committing funds for any such project,  
21               that—

22                       “(A) the project is in the public interest;

23                       “(B) the project will not adversely impact  
24               system reliability or operations, or other statu-  
25               tory obligations; and

1           “(C) it is reasonable to expect that the  
2           proceeds from the project shall be adequate to  
3           make repayment of the loan.

4           “(2) FORGIVENESS OF BALANCES.—

5           “(A) IN GENERAL.—If, at the end of the  
6           useful life of a project, there is a remaining bal-  
7           ance owed to the Treasury under this section,  
8           the balance shall be forgiven.

9           “(B) UNCONSTRUCTED PROJECTS.—Funds  
10          expended to study projects that are considered  
11          pursuant to this section but that are not con-  
12          structed shall be forgiven.

13          “(C) NOTIFICATION.—The Administrator  
14          shall notify the Secretary of such amounts as  
15          are to be forgiven under this paragraph.

16          “(e) PUBLIC PROCESSES.—

17          “(1) POLICIES AND PRACTICES.—Prior to re-  
18          questing any loans under this section, the Adminis-  
19          trator shall use a public process to develop practices  
20          and policies that implement the authority granted by  
21          this section.

22          “(2) REQUESTS FOR INTEREST.—In the course  
23          of selecting potential projects to be funded under  
24          this section, the Administrator shall seek Requests  
25          For Interest from entities interested in identifying

1 potential projects through one or more notices pub-  
2 lished in the Federal Register.”

3 SEC. 403. TECHNICAL CORRECTIONS TO THE EN-  
4 ERGY INDEPENDENCE AND SECURITY ACT OF 2007. Title  
5 XIII of the Energy Independence and Security Act of  
6 2007 (15 U.S.C. 17381 and following) is amended as fol-  
7 lows:

8 (1) By amending subparagraph (A) of section  
9 1304(b)(3) to read as follows:

10 “(A) IN GENERAL.—In carrying out the  
11 initiative, the Secretary shall provide financial  
12 support to smart grid demonstration projects  
13 including those in rural areas and/or areas  
14 where the majority of generation and trans-  
15 mission assets are controlled by a tax-exempt  
16 entity.”.

17 (2) By amending subparagraph (C) of section  
18 1304(b)(3) to read as follows:

19 “(C) FEDERAL SHARE OF COST OF TECH-  
20 NOLOGY INVESTMENTS.—The Secretary shall  
21 provide to an electric utility described in sub-  
22 paragraph (B) or to other parties financial as-  
23 sistance for use in paying an amount equal to  
24 not more than 50 percent of the cost of quali-  
25 fying advanced grid technology investments

1           made by the electric utility or other party to  
2           carry out a demonstration project. ”.

3           (3) By inserting a new subparagraph (E) after  
4       1304(b)(3)(D) as follows:

5                   “(E) AVAILABILITY OF DATA.—The  
6           Secretary shall establish and maintain a  
7           smart grid information clearinghouse in a  
8           timely manner which will make data from  
9           smart grid demonstration projects and  
10          other sources available to the public. As a  
11          condition of receiving financial assistance  
12          under this subsection, a utility or other  
13          participant in a smart grid demonstration  
14          project shall provide such information as  
15          the Secretary may require to become avail-  
16          able through the smart grid information  
17          clearinghouse in the form and within the  
18          timeframes as directed by the Secretary.  
19          The Secretary shall assure that business  
20          proprietary information and individual cus-  
21          tomer information is not included in the  
22          information made available through the  
23          clearinghouse.”.

24          (4) By amending paragraph (2) of section  
25       1304(c) to read as follows:

1           “(2) to carry out subsection (b), such sums as  
2           may be necessary.”.

3           (5) By amending subsection (a) of section 1306  
4           by striking “reimbursement of one-fifth (20 per-  
5           cent)” and inserting “grants of up to one-half (50  
6           percent)”.

7           (6) By striking the last sentence of subsection  
8           (b)(9) of section 1306.

9           (7) By striking “are eligible for” in subsection  
10          (c)(1) of section 1306 and inserting “utilize”.

11          (8) By amending subsection (e) of section 1306  
12          to read as follows:

13          “(e) The Secretary shall—

14               “(1) establish within 60 days after the enact-  
15               ment of the American Recovery and Reinvestment  
16               Act of 2009 procedures by which applicants can ob-  
17               tain grants of not more than one-half of their docu-  
18               mented costs;

19               “(2) establish procedures to ensure that there is  
20               no duplication or multiple payment for the same in-  
21               vestment or costs, that the grant goes to the party  
22               making the actual expenditures for Qualifying Smart  
23               Grid Investments, and that the grants made have  
24               significant effect in encouraging and facilitating the  
25               development of a smart grid;

1           “(3) maintain public records of grants made,  
2 recipients, and qualifying Smart Grid investments  
3 which have received grants;

4           “(4) establish procedures to provide advance  
5 payment of moneys up to the full amount of the  
6 grant award; and

7           “(5) have and exercise the discretion to deny  
8 grants for investments that do not qualify in the  
9 reasonable judgment of the Secretary.”.

10       SEC. 404. TEMPORARY STIMULUS LOAN GUARANTEE  
11 PROGRAM. (a) AMENDMENT.—Title XVII of the Energy  
12 Policy Act of 2005 (42 U.S.C. 16511 et seq.) is amended  
13 by adding the following at the end:

14       **“SEC. 1705. TEMPORARY PROGRAM FOR RAPID DEPLOY-**  
15                       **MENT OF RENEWABLE ENERGY AND ELEC-**  
16                       **TRIC POWER TRANSMISSION PROJECTS.**

17       “(a) IN GENERAL.—Notwithstanding section 1703,  
18 the Secretary may make guarantees under this section  
19 only for commercial technology projects under subsection  
20 (b) that will reach financial close not later than September  
21 30, 2012.

22       “(b) CATEGORIES.—Projects from only the following  
23 categories shall be eligible for support under this section:

24           “(1) Renewable energy systems.

25           “(2) Electric power transmission systems.

1       “(c) AUTHORIZATION LIMIT.—There are authorized  
 2 to be appropriated \$10,000,000,000 to the Secretary for  
 3 fiscal years 2009 through 2012 to provide the cost of  
 4 guarantees made under section.

5       “(d) SUNSET.—The authority to enter into guaran-  
 6 tees under this section shall expire on September 30,  
 7 2012.”.

8       (b) TABLE OF CONTENTS AMENDMENT.—The table  
 9 of contents for the Energy Policy Act of 2005 is amended  
 10 by inserting after the item relating to section 1704 the  
 11 following new item:

“Sec. 1705. Temporary program for rapid deployment of renewable energy and  
 electric power transmission projects.”.

12       SEC. 405. WEATHERIZATION PROGRAM AMEND-  
 13 MENTS. (a) INCOME LEVEL.—Section 412(7) of the En-  
 14 ergy Conservation and Production Act (42 U.S.C.  
 15 6862(7)) is amended by striking “150 percent” both  
 16 places it appears and inserting “200 percent”.

17       (b) ASSISTANCE LEVEL PER DWELLING UNIT.—Sec-  
 18 tion 415(c)(1) of the Energy Conservation and Production  
 19 Act (42 U.S.C. 6865(c)(1)) is amended by striking  
 20 “\$2,500” and inserting “\$5,000”.

21       (c) TRAINING AND TECHNICAL ASSISTANCE.—Sec-  
 22 tion 416 of the Energy Conservation and Production Act  
 23 (42 U.S.C. 6866) is amended by striking “10 percent”  
 24 and inserting “up to 20 percent”.



15 TITLE V—FINANCIAL SERVICES AND GENERAL  
16 GOVERNMENT

## COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

For an additional amount for “Community Development Financial Institutions Fund Program Account”, \$250,000,000, to remain available until September 30, 2010, for qualified applicants under the fiscal year 2008 and 2009 funding rounds of the Community Development Financial Institutions Program, of which up to

1 \$20,000,000 may be for financial assistance, technical as-  
2 sistance, training and outreach programs, including up to  
3 \$5,000 for subsistence expenses, designed to benefit Na-  
4 tive American, Native Hawaiian, and Alaskan Native com-  
5 munities and provided primarily through qualified commu-  
6 nity development lender organizations with experience and  
7 expertise in community development banking and lending  
8 in Indian country, Native American organizations, tribes  
9 and tribal organizations and other suitable providers and  
10 up to \$5,000,000 may be used for administrative ex-  
11 penses: *Provided*, That for purposes of the fiscal year 2008  
12 and 2009 funding rounds, the following statutory provi-  
13 sions are hereby waived: 12 U.S.C. 4707(e) and 12 U.S.C.  
14 4707(d): *Provided further*, That no awardee, together with  
15 its subsidiaries and affiliates, may be awarded more than  
16 15 percent of the aggregate funds available during each  
17 of fiscal years 2008 and 2009 from the Community Devel-  
18 opment Financial Institutions Program: *Provided further*,  
19 That no later than 60 days after the date of enactment  
20 of this Act, the Department of the Treasury shall submit  
21 to the Committees on Appropriations of the House of Rep-  
22 resentatives and the Senate a detailed expenditure plan  
23 for funds provided under this heading.

## 1 DISTRICT OF COLUMBIA

## 2 FEDERAL PAYMENTS

## 3 FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

## 4 WATER AND SEWER AUTHORITY

5 For a Federal payment to the District of Columbia  
6 Water and Sewer Authority, \$125,000,000, to remain  
7 available until September 30, 2010, to continue implemen-  
8 tation of the Combined Sewer Overflow Long-Term Con-  
9 trol Plan: *Provided*, That the District of Columbia Water  
10 and Sewer Authority provide a 100 percent match for this  
11 payment: *Provided further*, That no later than 60 days  
12 after the date of enactment of this Act, the District of  
13 Columbia Water and Sewer Authority shall submit to the  
14 Committees on Appropriations of the House of Represent-  
15 atives and the Senate a detailed expenditure plan for  
16 funds provided under this heading: *Provided further*, That  
17 such expenditure plan shall include a description of each  
18 specific project, how specific projects will further the ob-  
19 jectives of the Long-Term Control Plan, and all funding  
20 sources for each project.

## 1       GENERAL SERVICES ADMINISTRATION

## 2               REAL PROPERTY ACTIVITIES

## 3                   FEDERAL BUILDINGS FUND

## 4               LIMITATIONS ON AVAILABILITY OF REVENUE

## 5                   (INCLUDING TRANSFER OF FUNDS)

6       For an additional amount to be deposited in the Fed-  
7 eral Buildings Fund, \$9,048,000,000, to carry out the  
8 purposes of the Fund, of which not less than  
9 \$1,400,000,000 shall be available for Federal buildings  
10 and United States courthouses, not less than  
11 \$1,200,000,000 shall be available for border stations, and  
12 not less than \$6,000,000,000 shall be available for meas-  
13 ures necessary to convert GSA facilities to High-Perform-  
14 ance Green Buildings, as defined in section 401 of Public  
15 Law 110–140: *Provided*, That not to exceed \$108,000,000  
16 of the amounts provided under this heading may be ex-  
17 pended for rental of space, related to leasing of temporary  
18 space in connection with projects funded under this head-  
19 ing: *Provided further*, That not to exceed \$206,000,000  
20 of the amounts provided under this heading may be ex-  
21 pended for building operations, for the administrative  
22 costs of completing projects funded under this heading:  
23 *Provided further*, That (1) not less than \$7,000,000,000  
24 of the funds provided under this heading shall be obligated  
25 by September 30, 2010, and (2) \$1,600,000,000 shall be  
26 available until September 30, 2011: *Provided further*, That

1 the Administrator of General Services is authorized to ini-  
2 tiate design, construction, repair, alteration, and other  
3 projects through existing authorities of the Administrator:  
4 *Provided further*, That the General Services Administra-  
5 tion shall submit a detailed plan, by project, regarding the  
6 use of funds made available in this Act to the Committees  
7 on Appropriations of the House of Representatives and the  
8 Senate within 60 days of enactment of this Act: *Provided*  
9 *further*, That of the amounts provided for converting GSA  
10 facilities to High-Performance Green Buildings,  
11 \$4,000,000 shall be transferred to and merged with “Gov-  
12 ernment-Wide Policy”, for carrying out the provisions of  
13 section 436 of the Energy Independence and Security Act  
14 of 2007 (Public Law 110–140), establishing an Office of  
15 Federal High-Performance Green Buildings, to remain  
16 available until September 30, 2010: *Provided further*, That  
17 within the overall amount to be deposited into the Fund,  
18 \$448,000,000 shall remain available until September 30,  
19 2011, for the development and construction of the head-  
20 quarters for the Department of Homeland Security, except  
21 that none of the preceding provisos shall apply to amounts  
22 made available under this proviso.

1 ENERGY-EFFICIENT FEDERAL MOTOR VEHICLE FLEET  
 2 PROCUREMENT

3 For capital expenditures and necessary expenses of  
 4 acquiring motor vehicles with higher fuel economy, includ-  
 5 ing: hybrid vehicles; neighborhood electric vehicles; electric  
 6 vehicles; and commercially-available, plug-in hybrid vehi-  
 7 cles, \$600,000,000, to remain available until September  
 8 30, 2011.

9 OFFICE OF INSPECTOR GENERAL

10 For an additional amount for the Office of the In-  
 11 spector General, to remain available until September 30,  
 12 2011, \$2,000,000.

13 RECOVERY ACT ACCOUNTABILITY AND  
 14 TRANSPARENCY BOARD

15 For necessary expenses of the Recovery Act Account-  
 16 ability and Transparency Board to carry out the provi-  
 17 sions of title XV of this Act, \$7,000,000, to remain avail-  
 18 able until September 30, 2010.

19 SMALL BUSINESS ADMINISTRATION  
 20 SALARIES AND EXPENSES

21 For an additional amount, to remain available until  
 22 September 30, 2010, \$84,000,000, of which \$24,000,000  
 23 is for marketing, management, and technical assistance  
 24 under section 7(m) of the Small Business Act (15 U.S.C.  
 25 636(m)(4)) by intermediaries that make microloans under

1 the microloan program, of which \$15,000,000 is for lender  
 2 oversight activities as authorized in section 501(c) of this  
 3 title, and of which \$20,000,000 is for improving, stream-  
 4 lining, and automating information technology systems re-  
 5 lated to lender processes and lender oversight: *Provided,*  
 6 That no later than 60 days after the date of enactment  
 7 of this Act, the Small Business Administration shall sub-  
 8 mit to the Committees on Appropriations of the House  
 9 of Representatives and the Senate a detailed expenditure  
 10 plan for funds provided under the heading “Small Busi-  
 11 ness Administration” in this Act.

#### 12 OFFICE OF INSPECTOR GENERAL

13 For an additional amount for the Office of Inspector  
 14 General in carrying out the provisions of the Inspector  
 15 General Act of 1978, \$10,000,000, to remain available  
 16 until September 30, 2011.

#### 17 SURETY BOND GUARANTEES REVOLVING FUND

18 For additional capital for the Surety Bond Guar-  
 19 tees Revolving Fund, authorized by the Small Business  
 20 Investment Act of 1958, \$15,000,000, to remain available  
 21 until expended.

#### 22 BUSINESS LOANS PROGRAM ACCOUNT

23 For an additional amount for the cost of direct loans,  
 24 \$6,000,000, to remain available until September 30, 2010,  
 25 and for an additional amount for the cost of guaranteed

1 loans, \$615,000,000, to remain available until September  
 2 30, 2010: *Provided*, That of the amount for the cost of  
 3 guaranteed loans, \$515,000,000 shall be for loan subsidies  
 4 and loan modifications for loans to small business con-  
 5 cerns authorized in section 501(a) of this title; and  
 6 \$100,000,000 shall be for loan subsidies and loan modi-  
 7 fications for loans to small business concerns authorized  
 8 in section 501(b) of this title: *Provided further*, That such  
 9 costs, including the cost of modifying such loans, shall be  
 10 as defined in section 502 of the Congressional Budget Act  
 11 of 1974.

## 12 ADMINISTRATIVE PROVISIONS—SMALL BUSINESS

### 13 ADMINISTRATION

14 SEC. 501. ECONOMIC STIMULUS FOR SMALL BUSI-  
 15 NESS CONCERNS. (a) TEMPORARY FEE ELIMINATION FOR  
 16 THE 7(a) LOAN PROGRAM.—Until September 30, 2010,  
 17 and to the extent that the cost of such elimination of fees  
 18 is offset by appropriations, with respect to each loan guar-  
 19 anteed under section 7(a) of the Small Business Act (15  
 20 U.S.C. 636(a)) for which the application is approved on  
 21 or after the date of enactment of this Act, the Adminis-  
 22 trator shall—

23 (1) in lieu of the fee otherwise applicable under  
 24 section 7(a)(23)(A) of the Small Business Act (15  
 25 U.S.C. 636(a)(23)(A)), collect no fee; and



1           (2) in lieu of the fee otherwise applicable under  
 2           section 7(a)(18)(A) of the Small Business Act (15  
 3           U.S.C. 636(a)(18)(A)), collect no fee.

4           (b) TEMPORARY FEE ELIMINATION FOR THE 504  
 5           LOAN PROGRAM.—

6           (1) IN GENERAL.—Until September 30, 2010,  
 7           and to the extent the cost of such elimination in fees  
 8           is offset by appropriations, with respect to each  
 9           project or loan guaranteed by the Administrator  
 10          under title V of the Small Business Investment Act  
 11          of 1958 (15 U.S.C. 695 et seq.) for which an appli-  
 12          cation is approved or pending approval on or after  
 13          the date of enactment of this Act—

14                 (A) the Administrator shall, in lieu of the  
 15                 fee otherwise applicable under section 503(d)(2)  
 16                 of the Small Business Investment Act of 1958  
 17                 (15 U.S.C. 697(d)(2)), collect no fee;

18                 (B) a development company shall, in lieu  
 19                 of the processing fee under section  
 20                 120.971(a)(1) of title 13, Code of Federal Reg-  
 21                 ulations (relating to fees paid by borrowers), or  
 22                 any successor thereto, collect no fee.

23           (2) REIMBURSEMENT FOR WAIVED FEES.—

24                 (A) IN GENERAL.—To the extent that the  
 25                 cost of such payments is offset by appropria-

1           tions, the Administrator shall reimburse each  
 2           development company that does not collect a  
 3           processing fee pursuant to paragraph (1)(B).

4           (B) AMOUNT.—The payment to a develop-  
 5           ment company under subparagraph (A) shall be  
 6           in an amount equal to 1.5 percent of the net  
 7           debenture proceeds for which the development  
 8           company does not collect a processing fee pur-  
 9           suant to paragraph (1)(B).

10       (c) TEMPORARY FEE ELIMINATION OF LENDER  
 11       OVERSIGHT FEES.—Until September 30, 2010, and to the  
 12       extent the cost of such elimination in fees is offset by ap-  
 13       propriations, the Administrator shall, in lieu of the fee  
 14       otherwise applicable under section 5(b)(14) of the Small  
 15       Business Act (15 U.S.C. 634(b)(14)), collect no fee.

16       (d) APPLICATION OF FEE ELIMINATIONS.—The Ad-  
 17       ministrator shall eliminate fees under subsections (a), (b),  
 18       and (c) until the amount provided for such purposes, as  
 19       applicable, under the headings “Salaries and Expenses”  
 20       and “Business Loans Program Account” under the head-  
 21       ing “Small Business Administration” under this Act are  
 22       expended.

23       SEC. 502. FINANCIAL ASSISTANCE PROGRAM IM-  
 24       PROVEMENTS. (a) 7(a) LOAN MAXIMUM AMOUNT.—Sec-  
 25       tion 7(a)(3)(A) of the Small Business Act (15 U.S.C.

1 636(a)(3)(A)) is amended by striking “\$1,500,000 (or if  
 2 the gross loan amount would exceed \$2,000,000)” and in-  
 3 serting “\$2,250,000 (or if the gross loan amount would  
 4 exceed \$3,000,000)”.

5 (b) SMALL BUSINESS INVESTMENT COMPANIES.—

6 (1) MAXIMUM LEVERAGE.—Section 303(b) of  
 7 the Small Business Investment Act of 1958 (15  
 8 U.S.C. 683(b)) is amended—

9 (A) in paragraph (2), by striking subpara-  
 10 graphs (A), (B), and (C) and inserting the fol-  
 11 lowing:

12 “(A) IN GENERAL.—The maximum  
 13 amount of outstanding leverage made available  
 14 to any 1 company licensed under section 301(c)  
 15 may not exceed the lesser of—

16 “(i) 300 percent of the private capital  
 17 of the company; or

18 “(ii) \$150,000,000.

19 “(B) MULTIPLE LICENSES UNDER COM-  
 20 MON CONTROL.—The maximum amount of out-  
 21 standing leverage made available to 2 or more  
 22 companies licensed under section 301(c) that  
 23 are commonly controlled (as determined by the  
 24 Administrator) may not exceed \$225,000,000.

1                   “(C) INVESTMENTS IN LOW-INCOME GEO-  
2                   GRAPHIC AREAS.—

3                   “(i) IN GENERAL.—The maximum  
4                   amount of outstanding leverage made  
5                   available to—

6                   “(I) any 1 company described in  
7                   clause (ii) may not exceed the lesser  
8                   of—

9                   “(aa) 300 percent of private  
10                  capital of the company; or

11                  “(bb) \$175,000,000; and

12                  “(II) 2 or more companies de-  
13                  scribed in clause (ii) that are com-  
14                  monly controlled (as determined by  
15                  the Administrator) may not exceed  
16                  \$250,000,000.

17                  “(ii) APPLICABILITY.—A company de-  
18                  scribed in this clause is a company licensed  
19                  under section 301(c) that certifies in writ-  
20                  ing that not less than 50 percent of the  
21                  dollar amount of investments of that com-  
22                  pany shall be made in companies that are  
23                  located in a low-income geographic area  
24                  (as that term is defined in section 351).”;  
25                  and

1 (B) by striking paragraph (4).

2 (2) INVESTMENTS IN SMALLER ENTER-  
 3 PRISES.—Section 303(d) of the Small Business In-  
 4 vestment Act of 1958 (15 U.S.C. 683(d)) is amend-  
 5 ed to read as follows:

6 “(d) INVESTMENTS IN SMALLER ENTERPRISES.—  
 7 The Administrator shall require each licensee, as a condi-  
 8 tion of approval of an application for leverage, to certify  
 9 in writing that not less than 25 percent of the aggregate  
 10 dollar amount of financings of that licensee shall be pro-  
 11 vided to smaller enterprises.”.

12 (3) MAXIMUM INVESTMENT IN A COMPANY.—  
 13 Section 306(a) of the Small Business Investment  
 14 Act of 1958 (15 U.S.C. 686(a)) is amended by strik-  
 15 ing “20 per centum” and inserting “30 percent”.

16 (c) MAXIMUM 504 LOAN SIZE.—Section 502(2)(A)  
 17 of the Small Business Investment Act of 1958 (15 U.S.C.  
 18 696(2)(A)) is amended—

19 (1) in clause (i), by striking “\$1,500,000” and  
 20 inserting “\$3,000,000”;

21 (2) in clause (ii), by striking “\$2,000,000” and  
 22 inserting “\$3,500,000”; and

23 (3) in clause (iii), by striking “\$4,000,000” and  
 24 inserting “\$5,500,000”.

1        SEC. 503. LOW-INTEREST REFINANCING. Section  
2 502 of the Small Business Investment Act of 1958 (15  
3 U.S.C. 696) is amended by adding at the end the fol-  
4 lowing:

5            “(7) PERMISSIBLE DEBT FINANCING.—A fi-  
6 nancing under this title may include refinancing of  
7 existing indebtedness, in an amount not to exceed 50  
8 percent of the projected cost of the project financed  
9 under this title, if—

10            “(A) the project financed under this title  
11 involves the expansion of a small business con-  
12 cern;

13            “(B) the existing indebtedness is  
14 collateralized by fixed assets;

15            “(C) the existing indebtedness was in-  
16 curred for the benefit of the small business con-  
17 cern;

18            “(D) the proceeds of the existing indebted-  
19 ness were used to acquire land (including a  
20 building situated thereon), to construct or ex-  
21 pand a building thereon, or to purchase equip-  
22 ment;

23            “(E) the borrower has been current on all  
24 payments due on the existing indebtedness for

1 not less than 1 year preceding the proposed  
2 date of refinancing;

3 “(F) the financing under this title will pro-  
4 vide better terms or a better rate of interest  
5 than exists on the existing indebtedness on the  
6 proposed date of refinancing;

7 “(G) the financing under this title is not  
8 being used to refinance any debt guaranteed by  
9 the Government; and

10 “(H) the financing under this title will be  
11 used only for—

12 “(i) refinancing existing indebtedness;

13 or

14 “(ii) costs relating to the project fi-  
15 nanced under this title.”.

16 SEC. 504. DEFINITIONS. Under the heading “Small  
17 Business Administration” in this title—

18 (1) the terms “Administration” and “Adminis-  
19 trator” mean the Small Business Administration  
20 and the Administrator thereof, respectively;

21 (2) the term “development company” has the  
22 meaning given the term “development companies” in  
23 section 103 of the Small Business Investment Act of  
24 1958 (15 U.S.C. 662); and

4 TITLE VI—DEPARTMENT OF HOMELAND  
5 SECURITY

7 OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

21 OFFICE OF INSPECTOR GENERAL



## 1 U.S. CUSTOMS AND BORDER PROTECTION

## 2 SALARIES AND EXPENSES

3 For an additional amount for “Salaries and Ex-  
4 penses”, \$198,000,000, to remain available until Sep-  
5 tember 30, 2010, of which \$100,800,000 shall be for the  
6 procurement and deployment of non-intrusive inspection  
7 systems to improve port security; and of which  
8 \$97,200,000 shall be for procurement and deployment of  
9 tactical communications equipment and radios: *Provided*,  
10 That no later than 45 days after the date of enactment  
11 of this Act, the Secretary of Homeland Security shall sub-  
12 mit to the Committees on Appropriations of the Senate  
13 and the House of Representatives a plan for expenditure  
14 of these funds.

## 15 BORDER SECURITY FENCING, INFRASTRUCTURE, AND

## 16 TECHNOLOGY

17 For an additional amount for “Border Security Fenc-  
18 ing, Infrastructure, and Technology”, \$200,000,000, to  
19 remain available until September 30, 2010, for expedited  
20 development and deployment of border security technology  
21 on the Southwest border: *Provided*, That no later than 45  
22 days after the date of enactment of this Act, the Secretary  
23 of Homeland Security shall submit to the Committees on  
24 Appropriations of the Senate and the House of Represent-  
25 atives a plan for expenditure of these funds.

## 1 CONSTRUCTION

2 For an additional amount for “Construction”,  
3 \$800,000,000, to remain available until expended, solely  
4 for planning, management, design, alteration, and con-  
5 struction of U.S. Customs and Border Protection owned  
6 land border ports of entry: *Provided*, That no later than  
7 45 days after the date of enactment of this Act, the Sec-  
8 retary of Homeland Security shall submit to the Commit-  
9 tees on Appropriations of the Senate and the House of  
10 Representatives a plan for expenditure of these funds.

## 11 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

## 12 AUTOMATION MODERNIZATION

13 For an additional amount for “Automation Mod-  
14 ernization”, \$27,800,000, to remain available until Sep-  
15 tember 30, 2010, for the procurement and deployment of  
16 tactical communications equipment and radios: *Provided*,  
17 That no later than 45 days after the date of enactment  
18 of this Act, the Secretary of Homeland Security shall sub-  
19 mit to the Committees on Appropriations of the Senate  
20 and the House of Representatives a plan for expenditure  
21 of these funds.

## 22 TRANSPORTATION SECURITY ADMINISTRATION

## 23 AVIATION SECURITY

24 For an additional amount for “Aviation Security”,  
25 \$1,200,000,000, to remain available until September 30,

1 2010, for procurement and installation of checked baggage  
 2 explosives detection systems and checkpoint explosives de-  
 3 tection equipment: *Provided*, That no later than 45 days  
 4 after the date of enactment of this Act, the Secretary of  
 5 Homeland Security shall submit to the Committees on Ap-  
 6 propriations of the Senate and the House of Representa-  
 7 tives a plan for the expenditure of these funds.

## 8 COAST GUARD

### 9 ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

10 For an additional amount for “Acquisition, Construc-  
 11 tion, and Improvements”, \$572,500,000, to remain avail-  
 12 able until September 30, 2010, of which \$255,000,000  
 13 shall be for shortfalls in priority procurements due to ma-  
 14 terials and labor cost increases; of which \$195,000,000  
 15 shall be for shore facilities and aids to navigation facilities;  
 16 of which \$87,500,000 shall be for the design of a new  
 17 polar icebreaker or the renovation of an existing polar ice-  
 18 breaker, and major repair and maintenance of existing  
 19 polar icebreakers; and of which \$35,000,000 shall be for  
 20 emergency maintenance of the Coast Guard’s high endur-  
 21 ance cutters: *Provided*, That amounts made available for  
 22 the activities under this heading shall be available for all  
 23 necessary expenses related to the oversight and manage-  
 24 ment of such activities: *Provided further*, That no later  
 25 than 45 days after the date of enactment of this Act, the

1 Secretary of Homeland Security shall submit to the Com-  
2 mittees on Appropriations of the Senate and the House  
3 of Representatives a plan for the expenditure of these  
4 funds.

5 ALTERATION OF BRIDGES

6 For an additional amount for “Alteration of  
7 Bridges”, \$240,400,000, to remain available until Sep-  
8 tember 30, 2010, for alteration or removal of obstructive  
9 bridges, as authorized by section 6 of the Truman-Hobbs  
10 Act (33 U.S.C. 516): *Provided*, That no later than 45 days  
11 after the date of enactment of this Act, the Secretary of  
12 Homeland Security shall submit to the Committees on Ap-  
13 propriations of the Senate and the House of Representa-  
14 tives a plan for the expenditure of these funds.

15 FEDERAL EMERGENCY MANAGEMENT AGENCY

16 MANAGEMENT AND ADMINISTRATION

17 For an additional amount for “Management and Ad-  
18 ministration”, \$6,000,000 for the acquisition of commu-  
19 nications response vehicles to be deployed in response to  
20 a disaster or a national security event.

21 STATE AND LOCAL PROGRAMS

22 For an additional amount for grants, \$950,000,000,  
23 to be allocated as follows:

24 (1) \$100,000,000, to remain available until  
25 September 30, 2010, for Public Transportation Se-  
26 curity Assistance, Railroad Security Assistance, and

1 Systemwide Amtrak Security Upgrades under sec-  
2 tions 1406, 1513, and 1514 of the Implementing  
3 Recommendations of the 9/11 Commission Act of  
4 2007 (Public Law 110–53; 6 U.S.C. 1135, 1163,  
5 and 1164).

6 (2) \$100,000,000, to remain available until  
7 September 30, 2010, for Port Security Grants in ac-  
8 cordance with 46 U.S.C. 70107, notwithstanding 46  
9 U.S.C. 70107(c).

10 (3) \$250,000,000, to remain available until  
11 September 30, 2010, for upgrading, modifying, or  
12 constructing emergency operations centers under  
13 section 614 of the Robert T. Stafford Disaster Relief  
14 and Emergency Assistance Act, notwithstanding sec-  
15 tion 614(c) of that Act or for upgrading, modifying,  
16 or constructing State and local fusion centers as de-  
17 fined by section 210A(j)(1) of the Homeland Secu-  
18 rity Act of 2002 (6 U.S.C. 124h(j)(1)).

19 (4) \$500,000,000 for construction to upgrade  
20 or modify critical infrastructure, as defined in sec-  
21 tion 1016(e) of the USA PATRIOT Act of 2001 (42  
22 U.S.C. 5195c(e)), to mitigate consequences related  
23 to potential damage from all-hazards: *Provided*,  
24 That funds in this paragraph shall remain available  
25 until September 30, 2011: *Provided further*, That 5

1       percent shall be for program administration: *Pro-*  
 2       *vided further*, That no later than 60 days after the  
 3       date of enactment of this Act, the Secretary of  
 4       Homeland Security shall submit to the Committees  
 5       on Appropriations of the Senate and the House of  
 6       Representatives a plan for expenditure of these  
 7       funds.

8                       FIREFIGHTER ASSISTANCE GRANTS

9       For an additional amount for competitive grants,  
 10     \$500,000,000, to remain available until September 30,  
 11     2010, for modifying, upgrading, or constructing State and  
 12     local fire stations: *Provided*, That up to 5 percent shall  
 13     be for program administration: *Provided further*, That no  
 14     grant shall exceed \$15,000,000.

15                   DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

16       Notwithstanding section 417(b) of the Robert T.  
 17     Stafford Disaster Relief and Emergency Assistance Act,  
 18     the amount of any such loan issued pursuant to this sec-  
 19     tion for major disasters occurring in calendar year 2008  
 20     may exceed \$5,000,000, and may be equal to not more  
 21     than 50 percent of the annual operating budget of the  
 22     local government in any case in which that local govern-  
 23     ment has suffered a loss of 25 percent or more in tax reve-  
 24     nues: *Provided*, That the cost of modifying such loans shall  
 25     be as defined in section 502 of the Congressional Budget  
 26     Act of 1974 (2 U.S.C. 661a).

1                   EMERGENCY FOOD AND SHELTER

2           For an additional amount to carry out the emergency  
3 food and shelter program pursuant to title III of the  
4 McKinney-Vento Homeless Assistance Act (42 U.S.C.  
5 11331 et seq.), \$100,000,000: *Provided*, That total admin-  
6 istrative costs shall not exceed 3.5 percent of the total  
7 amount made available under this heading.

8           FEDERAL LAW ENFORCEMENT TRAINING CENTER

9           ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND

10                                   RELATED EXPENSES

11          For an additional amount for “Acquisition, Construc-  
12 tion, Improvements, and Related Expenses”, \$15,000,000,  
13 to remain available until September 30, 2010, for security  
14 systems and law enforcement upgrades for all Federal  
15 Law Enforcement Training Center facilities: *Provided*,  
16 That no later than 45 days after the date of enactment  
17 of this Act, the Secretary of Homeland Security shall sub-  
18 mit to the Committees on Appropriations of the Senate  
19 and the House of Representatives a plan for the expendi-  
20 ture of these funds.

21                                   SCIENCE AND TECHNOLOGY

22           RESEARCH, DEVELOPMENT, ACQUISITION, AND

23                                   OPERATIONS

24          For an additional amount for “Research, Develop-  
25 ment, Acquisition, and Operations”, \$14,000,000, to re-

1 main available until September 30, 2010, for cyber secu-  
2 rity research: *Provided*, That no later than 45 days after  
3 the date of enactment of this Act, the Secretary of Home-  
4 land Security shall submit to the Committees on Appro-  
5 priations of the Senate and the House of Representatives  
6 a plan for the expenditure of these funds.

7           GENERAL PROVISIONS—THIS TITLE

8           SEC. 601. Notwithstanding any other provision of  
9 law, the President shall establish an arbitration panel  
10 under the Federal Emergency Management Agency public  
11 assistance program to expedite the recovery efforts from  
12 Hurricanes Katrina, Rita, Gustav, and Ike within the Gulf  
13 Coast Region. The arbitration panel shall have sufficient  
14 authority regarding the award or denial of disputed public  
15 assistance applications for covered hurricane damage  
16 under section 403, 406, or 407 of the Robert T. Stafford  
17 Disaster Relief and Emergency Assistance Act (42 U.S.C.  
18 5170b, 5172, or 5173) for a project the total amount of  
19 which is more than \$500,000.

20          SEC. 602. The Administrator of the Federal Emer-  
21 gency Management Agency may not prohibit or restrict  
22 the use of funds designated under the hazard mitigation  
23 grant program for damage caused by Hurricanes Katrina  
24 and Rita if the homeowner who is an applicant for assist-  
25 ance under such program commenced work otherwise eligi-



ble for hazard mitigation grant program assistance under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) without approval in writing from the Administrator.

TITLE VII—INTERIOR, ENVIRONMENT, AND  
RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for “Management of Lands and Resources”, \$135,000,000, to remain available until September 30, 2010.

CONSTRUCTION

For an additional amount for “Construction”, \$180,000,000, to remain available until September 30, 2010.

WILDLAND FIRE MANAGEMENT

For an additional amount for “Wildland Fire Management”, \$15,000,000, to remain available until September 30, 2010.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management”, \$190,000,000, to remain available until September 30, 2010.

1 CONSTRUCTION

2 For an additional amount for “Construction”,  
3 \$110,000,000, to remain available until September 30,  
4 2010.

5 NATIONAL PARK SERVICE

6 OPERATION OF THE NATIONAL PARK SYSTEM

7 For an additional amount for “Operation of the Na-  
8 tional Park System”, \$158,000,000, to remain available  
9 until September 30, 2010.

10 HISTORIC PRESERVATION FUND

11 For an additional amount for “Historic Preservation  
12 Fund”, \$55,000,000, to remain available until September  
13 30, 2010.

14 CONSTRUCTION

15 For an additional amount for “Construction”,  
16 \$589,000,000, to remain available until September 30,  
17 2010.

18 UNITED STATES GEOLOGICAL SURVEY

19 SURVEYS, INVESTIGATIONS, AND RESEARCH

20 For an additional amount for “Surveys, Investiga-  
21 tions, and Research”, \$135,000,000, to remain available  
22 until September 30, 2010.

23 BUREAU OF INDIAN AFFAIRS

24 OPERATION OF INDIAN PROGRAMS

25 For an additional amount for “Operation of Indian  
26 Programs”, \$40,000,000, to remain available until Sep-

1   tember 30, 2010, of which \$20,000,000 shall be for the  
2   housing improvement program.

3                                   CONSTRUCTION

4       For an additional amount for “Construction”,  
5   \$522,000,000, to remain available until September 30,  
6   2010.

7                   INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

8       For an additional amount for “Indian Guaranteed  
9   Loan Program Account”, \$10,000,000, to remain avail-  
10   able until September 30, 2010.

11                           DEPARTMENTAL OFFICES

12                                   INSULAR AFFAIRS

13   ASSISTANCE TO TERRITORIES

14       For an additional amount for “Assistance to Terri-  
15   tories”, \$62,000,000, to remain available until September  
16   30, 2010.

17                                   OFFICE OF INSPECTOR GENERAL

18   SALARIES AND EXPENSES

19       For an additional amount for “Office of Inspector  
20   General”, \$7,600,000, to remain available until September  
21   30, 2010.

22                                   DEPARTMENT-WIDE PROGRAMS

23   CENTRAL HAZARDOUS MATERIALS FUND

24       For an additional amount for “Central Hazardous  
25   Materials Fund”, \$20,000,000, to remain available until  
26   September 30, 2010.

## 1 WORKING CAPITAL FUND

2 For an additional amount for “Working Capital  
3 Fund”, \$20,000,000, to remain available until September  
4 30, 2010.

## 5 ENVIROMENTAL PROTECTION AGENCY

## 6 HAZARDOUS SUBSTANCE SUPERFUND

## 7 (INCLUDING TRANSFERS OF FUNDS)

8 For an additional amount for “Hazardous Substance  
9 Superfund”, \$800,000,000, to remain available until Sep-  
10 tember 30, 2010, as a payment from general revenues to  
11 the Hazardous Substance Superfund, to carry out reme-  
12 dial actions: *Provided*, That the Administrator may retain  
13 up to 2 percent of the funds appropriated herein for  
14 Superfund remedial actions for program oversight and  
15 support purposes, and may transfer those funds to other  
16 accounts as needed.

17 LEAKING UNDERGROUND STORAGE TANK TRUST FUND  
18 PROGRAM

19 For an additional amount for “Leaking Underground  
20 Storage Tank Trust Fund Program”, \$200,000,0000, to  
21 remain available until September 30, 2010, for cleanup  
22 activities: *Provided*, That none of these funds shall be sub-  
23 ject to cost share requirements.

## 1 STATE AND TRIBAL ASSISTANCE GRANTS

2 (INCLUDING TRANSFERS OF FUNDS)

3 For an additional amount for “State and Tribal As-  
4 sistance Grants”, \$6,400,000,000, to remain available  
5 until September 30, 2010, of which \$4,000,000,000 shall  
6 be for making capitalization grants for the Clean Water  
7 State Revolving Funds under title VI of the Federal Water  
8 Pollution Control Act, as amended; of which  
9 \$2,000,000,000 shall be for making capitalization grants  
10 for the Drinking Water State Revolving Fund under sec-  
11 tion 1452 of the Safe Drinking Water Act, as amended;  
12 of which \$100,000,000 shall be available for Brownfields  
13 remediation grants pursuant to section 104(k)(3) of the  
14 Comprehensive Environmental Response, Compensation  
15 and Liability Act of 1980, as amended; and of which  
16 \$300,000,000 shall be for Diesel Emission Reduction Act  
17 grants pursuant to title VII, subtitle G of the Energy Pol-  
18 icy Act of 2005, as amended: *Provided*, That notwith-  
19 standing the priority ranking they would otherwise receive  
20 under each program, priority for funds appropriated here-  
21 in for the Clean Water State Revolving Funds and Drink-  
22 ing Water State Revolving Funds (Revolving Funds) shall  
23 be allocated to projects that are ready to proceed to con-  
24 struction within 180 days of enactment of this Act: *Pro-*  
25 *vided further*, That the Administrator of the Environ-

1 mental Protection Agency (Administrator) may reallocate  
2 funds appropriated herein for the Revolving Funds that  
3 are not under binding commitments to proceed to con-  
4 struction within 180 days of enactment of this Act: *Pro-*  
5 *vided further*, That notwithstanding any other provision of  
6 law, financial assistance provided from funds appropriated  
7 herein for the Revolving Funds may include additional  
8 subsidization, including forgiveness of principal and nega-  
9 tive interest loans: *Provided further*, That not less than  
10 15 percent of the funds appropriated herein for the Re-  
11 volving Funds shall be designated for green infrastructure,  
12 water efficiency improvements or other environmentally  
13 innovative projects: *Provided further*, That notwith-  
14 standing the limitation on amounts specified in section  
15 518(c) of the Federal Water Pollution Control Act, up to  
16 a total of 1.5 percent of the funds appropriated herein  
17 for the Clean Water State Revolving Funds may be re-  
18 served by the Administrator for tribal grants under section  
19 518(c) of such Act: *Provided further*, That section 1452(k)  
20 of the Safe Drinking Water Act shall not apply to amounts  
21 appropriated herein for the Drinking Water State Revolv-  
22 ing Funds: *Provided further*, That the Administrator may  
23 exceed the 30 percent limitation on State grants for funds  
24 appropriated herein for Diesel Emission Reduction Act  
25 grants if the Administrator determines such action will ex-

1 pedite allocation of funds: *Provided further*, That none of  
 2 the funds appropriated herein shall be subject to cost  
 3 share requirements: *Provided further*, That the Adminis-  
 4 trator may retain up to 0.25 percent of the funds appro-  
 5 priated herein for the Clean Water State Revolving Funds  
 6 and Drinking Water State Revolving Funds and up to 1.5  
 7 percent of the funds appropriated herein for the Diesel  
 8 Emission Reduction Act grants program for program  
 9 oversight and support purposes and may transfer those  
 10 funds to other accounts as needed.

## 11 DEPARTMENT OF AGRICULTURE

### 12 FOREST SERVICE

#### 13 CAPITAL IMPROVEMENT AND MAINTENANCE

14 For an additional amount for “Capital Improvement  
 15 and Maintenance”, \$650,000,000, to remain available  
 16 until September 30, 2010, which shall include remediation  
 17 of abandoned mine sites and support costs necessary to  
 18 carry out this work.

#### 19 WILDLAND FIRE MANAGEMENT

20 For an additional amount for “Wildland Fire Man-  
 21 agement”, \$650,000,000, to remain available until Sep-  
 22 tember 30, 2010, for hazardous fuels reduction and haz-  
 23 ard mitigation activities in areas at high risk of cata-  
 24 strophic wildfire, of which \$350,000,000 is available for  
 25 work on State and private lands using all the authorities  
 26 available to the Forest Service: *Provided*, That of the

1 funds provided for State and private land fuels reduction  
2 activities, up to \$50,000,000 may be used to make grants  
3 for the purpose of creating incentives for increased use  
4 of biomass from national forest lands.

5 DEPARTMENT OF HEALTH AND HUMAN  
6 SERVICES

7 INDIAN HEALTH SERVICE

8 INDIAN HEALTH SERVICES

9 For an additional amount for “Indian Health Serv-  
10 ices”, \$135,000,000, to remain available until September  
11 30, 2010, of which \$50,000,000 is for contract health  
12 services; and of which \$85,000,000 is for health informa-  
13 tion technology: *Provided*, That the amount made avail-  
14 able for health information technology activities may be  
15 used for both telehealth services development and related  
16 infrastructure requirements that are typically funded  
17 through the “Indian Health Facilities” account: *Provided*  
18 *further*, That notwithstanding any other provision of law,  
19 health information technology funds provided within this  
20 title shall be allocated at the discretion of the Director  
21 of the Indian Health Service.

22 INDIAN HEALTH FACILITIES

23 For an additional amount for “Indian Health Facili-  
24 ties”, \$410,000,000, to remain available until September  
25 30, 2010: *Provided*, That for the purposes of this Act,  
26 spending caps included within the annual appropriation



1 for “Indian Health Facilities” for the purchase of medical  
2 equipment shall not apply.

3 SMITHSONIAN INSTITUTION

4 FACILITIES CAPITAL

5 For an additional amount for “Facilities Capital”,  
6 \$150,000,000, to remain available until September 30,  
7 2010.

8 GENERAL PROVISIONS—THIS TITLE

9 SEC. 701. (a) Within 30 days of enactment of this  
10 Act, each agency receiving funds under this title shall sub-  
11 mit a general plan for the expenditure of such funds to  
12 the House and Senate Committees on Appropriations.

13 (b) Within 90 days of enactment of this Act, each  
14 agency receiving funds under this title shall submit to the  
15 Committees a report containing detailed project level in-  
16 formation associated with the general plan submitted pur-  
17 suant to subsection (a).

18 SEC. 702. In carrying out the work for which funds  
19 in this title are being made available, the Secretary of the  
20 Interior and the Secretary of Agriculture may utilize the  
21 Public Lands Corps, Youth Conservation Corps, Job  
22 Corps and other related partnerships with Federal, State,  
23 local, tribal or non-profit groups that serve young adults.

1 TITLE VIII—DEPARTMENTS OF LABOR,  
 2 HEALTH AND HUMAN SERVICES, AND EDU-  
 3 CATION, AND RELATED AGENCIES

4 DEPARTMENT OF LABOR

5 EMPLOYMENT AND TRAINING ADMINISTRATION

6 TRAINING AND EMPLOYMENT SERVICES

7 For an additional amount for “Training and Employ-  
 8 ment Services” for activities authorized by the Workforce  
 9 Investment Act of 1998 (“WIA”), \$3,250,000,000, which  
 10 shall be available on the date of enactment of this Act,  
 11 as follows:

12 (1) \$500,000,000 for adult employment and  
 13 training activities, including supportive services and  
 14 needs-related payments described in section  
 15 134(e)(2) and (3) of the WIA: *Provided*, That a pri-  
 16 ority use of these funds shall be services to individ-  
 17 uals described in 134(d)(4)(E) of the WIA;

18 (2) \$1,200,000,000 for grants to the States for  
 19 youth activities, including summer employment for  
 20 youth: *Provided*, That no portion of such funds shall  
 21 be reserved to carry out section 127(b)(1)(A) of the  
 22 WIA: *Provided further*, That for purposes of section  
 23 127(b)(1)(C)(iv) of the WIA, funds available for  
 24 youth activities shall be allotted as if the total  
 25 amount available for youth activities in the fiscal

1 year does not exceed \$1,000,000,000: *Provided fur-*  
2 *ther*, That, with respect to the youth activities pro-  
3 vided with such funds, section 101(13)(A) of the  
4 WIA shall be applied by substituting “age 24” for  
5 “age 21”: *Provided further*, That the work readiness  
6 performance indicator described in section  
7 136(b)(2)(A)(ii)(I) of the WIA shall be the only  
8 measure of performance used to assess the effective-  
9 ness of youth activities provided with such funds;

10 (3) \$1,000,000,000 for grants to the States for  
11 dislocated worker employment and training activi-  
12 ties;

13 (4) \$200,000,000 for national emergency  
14 grants;

15 (5) \$250,000,000 under the dislocated worker  
16 national reserve for a program of competitive grants  
17 for worker training in high growth and emerging in-  
18 dustry sectors and assistance under 132(b)(2)(A) of  
19 the WIA: *Provided*, That the Secretary of Labor  
20 shall give priority when awarding such grants to  
21 projects that prepare workers for careers in energy  
22 efficiency and renewable energy as described in sec-  
23 tion 171(e)(1)(B) of the WIA and for careers in the  
24 health care sector; and

1           (6) \$100,000,000 for YouthBuild activities as  
 2       described in section 173A of the WIA: *Provided*,  
 3       That for program years 2008 and 2009, the  
 4       YouthBuild program may serve an individual who  
 5       has dropped out of high school and re-enrolled in an  
 6       alternative school, if that re-enrollment is part of a  
 7       sequential service strategy:

8   *Provided*, That funds made available in this paragraph  
 9   shall remain available through June 30, 2010: *Provided*  
 10 *further*, That a local board may award a contract to an  
 11 institution of higher education if the local board deter-  
 12 mines that it would facilitate the training of multiple indi-  
 13 viduals in high-demand occupations, if such contract does  
 14 not limit customer choice.

15           COMMUNITY SERVICE EMPLOYMENT FOR OLDER

16                           AMERICANS

17       For an additional amount for “Community Service  
 18 Employment for Older Americans” for carrying out title  
 19 V of the Older Americans Act of 1965, \$120,000,000,  
 20 which shall be available on the date of enactment of this  
 21 Act and shall remain available through June 30, 2010:  
 22 *Provided*, That funds shall be allotted within 30 days of  
 23 such enactment to current grantees in proportion to their  
 24 allotment in program year 2008: *Provided further*, That  
 25 funds made available under this heading in this Act may,

1 in accordance with section 517(c) of the Older Americans  
 2 Act of 1965, be recaptured and reobligated.

3 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT  
 4 SERVICE OPERATIONS

5 For an additional amount for “State Unemployment  
 6 Insurance and Employment Service Operations” for  
 7 grants to States in accordance with section 6 of the Wag-  
 8 ner-Peyser Act, \$400,000,000, which may be expended  
 9 from the Employment Security Administration account in  
 10 the Unemployment Trust Fund: *Provided*, That such  
 11 funds shall be available on the date of enactment of this  
 12 Act and remain available to the States through September  
 13 30, 2010: *Provided further*, That \$250,000,000 of such  
 14 funds shall be used by States for reemployment services  
 15 for unemployment insurance claimants (including the inte-  
 16 grated Employment Service and Unemployment Insurance  
 17 information technology required to identify and serve the  
 18 needs of such claimants): *Provided further*, That the Sec-  
 19 retary of Labor shall establish planning and reporting pro-  
 20 cedures necessary to provide oversight of funds used for  
 21 reemployment services.

22 DEPARTMENTAL MANAGEMENT

23 OFFICE OF JOB CORPS

24 For an additional amount for “Office of Job Corps”  
 25 for construction, alteration and repairs of buildings and  
 26 other facilities, \$160,000,000, which shall remain avail-

1 able through June 30, 2010: *Provided*, That the Secretary  
 2 of Labor may transfer up to 15 percent of such funds to  
 3 meet the operational needs of Job Corps Centers, which  
 4 may include training for careers in the energy efficiency,  
 5 renewable energy, and environmental protection indus-  
 6 tries: *Provided further*, That not later than 90 days after  
 7 the date of enactment of this Act, the Secretary shall pro-  
 8 vide to the Committee on Appropriations of the House of  
 9 Representatives and the Senate an operating plan describ-  
 10 ing the planned uses of funds available in this paragraph.

11 OFFICE OF INSPECTOR GENERAL

12 For an additional amount for the “Office of Inspector  
 13 General”, \$3,000,000, which shall remain available  
 14 through September 30, 2010, for salaries and expenses  
 15 necessary for oversight and audit of programs, grants, and  
 16 projects funded in this Act and administered by the De-  
 17 partment of Labor.

18 DEPARTMENT OF HEALTH AND HUMAN  
 19 SERVICES

20 HEALTH RESOURCES AND SERVICES ADMINISTRATION

21 HEALTH RESOURCES AND SERVICES

22 For an additional amount for “Health Resources and  
 23 Services”, \$1,088,000,000, which shall remain available  
 24 through September 30, 2010, of which \$88,000,000 shall  
 25 be for necessary expenses related to leasing and renovating  
 26 a headquarters building for Public Health Service agencies

1 and other components of the Department of Health and  
 2 Human Services, including renovation and fit-out costs,  
 3 and of which \$1,000,000,000 shall be for grants for con-  
 4 struction, renovation and equipment for health centers re-  
 5 ceiving operating grants under section 330 of the Public  
 6 Health Service Act, notwithstanding the limitation in sec-  
 7 tion 330(e)(3).

8       CENTERS FOR DISEASE CONTROL AND PREVENTION  
 9           DISEASE CONTROL, RESEARCH, AND TRAINING

10       For an additional amount for “Disease Control, Re-  
 11 search, and Training” for acquisition of real property,  
 12 equipment, construction, and renovation of facilities, in-  
 13 cluding necessary repairs and improvements to leased lab-  
 14 oratories, \$412,000,000, which shall remain available  
 15 through September 30, 2010: *Provided*, That notwith-  
 16 standing any other provision of law, the Centers for Dis-  
 17 ease Control and Prevention may award a single contract  
 18 or related contracts for development and construction of  
 19 facilities that collectively include the full scope of the  
 20 project: *Provided further*, That the solicitation and con-  
 21 tract shall contain the clause “availability of funds” found  
 22 at 48 CFR 52.232–18.

## 1 NATIONAL INSTITUTES OF HEALTH

## 2 NATIONAL CENTER FOR RESEARCH RESOURCES

3 For an additional amount for “National Center for  
4 Research Resources”, \$300,000,000, which shall be avail-  
5 able through September 30, 2010, for shared instrumenta-  
6 tion and other capital research equipment.

## 7 OFFICE OF THE DIRECTOR

## 8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for “Office of the Direc-  
10 tor”, \$2,700,000,000, which shall be available through  
11 September 30, 2010: *Provided*, That \$1,350,000,000 shall  
12 be transferred to the Institutes and Centers of the Na-  
13 tional Institutes of Health and to the Common Fund es-  
14 tablished under section 402A(c)(1) of the Public Health  
15 Service Act in proportion to the appropriations otherwise  
16 made to such Institutes, Centers, and Common Fund for  
17 fiscal year 2009: *Provided further*, That these funds shall  
18 be used to support additional scientific research and shall  
19 be merged with and be available for the same purposes  
20 as the appropriation or fund to which transferred: *Pro-*  
21 *vided further*, That this transfer authority is in addition  
22 to any other transfer authority available to the National  
23 Institutes of Health: *Provided further*, That none of these  
24 funds may be transferred to “National Institutes of  
25 Health—Buildings and Facilities”, the Center for Sci-  
26 entific Review, the Center for Information Technology, the



1 Clinical Center, the Global Fund for HIV/AIDS, Tuber-  
 2 culosis and Malaria, or the Office of the Director (except  
 3 for the transfer to the Common Fund).

4 BUILDINGS AND FACILITIES

5 For an additional amount for “Buildings and Facili-  
 6 ties”, \$500,000,000, which shall be available through Sep-  
 7 tember 30, 2010, to fund high-priority repair, construction  
 8 and improvement projects for National Institutes of  
 9 Health facilities on the Bethesda, Maryland campus and  
 10 other agency locations.

11 AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

12 HEALTHCARE RESEARCH AND QUALITY

13 (INCLUDING TRANSFER OF FUNDS)

14 For an additional amount for “Healthcare Research  
 15 and Quality” to carry out titles III and IX of the Public  
 16 Health Service Act, part A of title XI of the Social Secu-  
 17 rity Act, and section 1013 of the Medicare Prescription  
 18 Drug, Improvement, and Modernization Act of 2003,  
 19 \$700,000,000 for comparative clinical effectiveness re-  
 20 search, which shall remain available through September  
 21 30, 2010: *Provided*, That of the amount appropriated in  
 22 this paragraph, \$400,000,000 shall be transferred to the  
 23 Office of the Director of the National Institutes of Health  
 24 (“Office of the Director”) to conduct or support compara-  
 25 tive clinical effectiveness research under section 301 and  
 26 title IV of the Public Health Service Act: *Provided further*,

1 That funds transferred to the Office of the Director may  
2 be transferred to the Institutes and Centers of the Na-  
3 tional Institutes of Health and to the Common Fund es-  
4 tablished under section 402A(c)(1) of the Public Health  
5 Service Act: *Provided further*, That this transfer authority  
6 is in addition to any other transfer authority available to  
7 the National Institutes of Health: *Provided further*, That  
8 within the amount available in this paragraph for the  
9 Agency for Healthcare Research and Quality, not more  
10 than 1 percent shall be made available for additional full-  
11 time equivalents.

12 In addition, \$400,000,000 shall be available for com-  
13 parative clinical effectiveness research to be allocated at  
14 the discretion of the Secretary of Health and Human  
15 Services (“Secretary”) and shall remain available through  
16 September 30, 2010: *Provided*, That the funding appro-  
17 priated in this paragraph shall be used to accelerate the  
18 development and dissemination of research assessing the  
19 comparative clinical effectiveness of health care treat-  
20 ments and strategies, including through efforts that: (1)  
21 conduct, support, or synthesize research that compares the  
22 clinical outcomes, effectiveness, and appropriateness of  
23 items, services, and procedures that are used to prevent,  
24 diagnose, or treat diseases, disorders, and other health  
25 conditions and (2) encourage the development and use of

1 clinical registries, clinical data networks, and other forms  
2 of electronic health data that can be used to generate or  
3 obtain outcomes data: *Provided further*, That the Sec-  
4 retary shall enter into a contract with the Institute of  
5 Medicine, for which no more than \$1,500,000 shall be  
6 made available from funds provided in this paragraph, to  
7 produce and submit a report to the Congress and the Sec-  
8 retary by not later than June 30, 2009 that includes rec-  
9 ommendations on the national priorities for comparative  
10 clinical effectiveness research to be conducted or sup-  
11 ported with the funds provided in this paragraph and that  
12 considers input from stakeholders: *Provided further*, That  
13 the Secretary shall consider any recommendations of the  
14 Federal Coordinating Council for Comparative Clinical Ef-  
15 fectiveness Research established by section 802 of this Act  
16 and any recommendations included in the Institute of  
17 Medicine report pursuant to the preceding proviso in des-  
18 ignating activities to receive funds provided in this para-  
19 graph and may make grants and contracts with appro-  
20 priate entities, which may include agencies within the De-  
21 partment of Health and Human Services and other gov-  
22 ernmental agencies, as well as private sector entities, that  
23 have demonstrated experience and capacity to achieve the  
24 goals of comparative clinical effectiveness research: *Pro-*  
25 *vided further*, That the Secretary shall publish information

1 on grants and contracts awarded with the funds provided  
 2 under this heading within a reasonable time of the obliga-  
 3 tion of funds for such grants and contracts and shall dis-  
 4 seminate research findings from such grants and contracts  
 5 to clinicians, patients, and the general public, as appro-  
 6 priate: *Provided further*, That, to the extent feasible, the  
 7 Secretary shall ensure that the recipients of the funds pro-  
 8 vided by this paragraph offer an opportunity for public  
 9 comment on the research: *Provided further*, That the Sec-  
 10 retary shall provide the Committees on Appropriations of  
 11 the House of Representatives and the Senate, the Com-  
 12 mittee on Energy and Commerce and the Committee on  
 13 Ways and Means of the House of Representatives, and the  
 14 Committee on Health, Education, Labor, and Pensions  
 15 and the Committee on Finance of the Senate with an an-  
 16 nual report on the research conducted or supported  
 17 through the funds provided under this heading.

18 ADMINISTRATION FOR CHILDREN AND FAMILIES

19 PAYMENTS TO STATES FOR THE CHILD CARE AND

20 DEVELOPMENT BLOCK GRANT

21 For an additional amount for “Payments to States  
 22 for the Child Care and Development Block Grant” for car-  
 23 rying out the Child Care and Development Block Grant  
 24 Act of 1990, \$2,000,000,000, which shall remain available  
 25 through September 30, 2010: *Provided*, That funds pro-

1 vided under this heading shall be used to supplement, not  
 2 supplant State general revenue funds for child care assist-  
 3 ance for low-income families: *Provided further*, That, in  
 4 addition to the amounts required to be reserved by the  
 5 States under section 658G of such Act, \$255,186,000  
 6 shall be reserved by the States for activities authorized  
 7 under section 658G, of which \$93,587,000 shall be for ac-  
 8 tivities that improve the quality of infant and toddler care.

9 SOCIAL SERVICES BLOCK GRANT

10 For an additional amount for “Social Services Block  
 11 Grant,” \$400,000,000: *Provided*, That notwithstanding  
 12 section 2003 of the Social Security Act, funds shall be al-  
 13 located to States on the basis of unemployment: *Provided*  
 14 *further*, That these funds shall be obligated to States with-  
 15 in 60 calendar days from the date they become available  
 16 for obligation.

17 CHILDREN AND FAMILIES SERVICES PROGRAMS

18 For an additional amount for “Children and Families  
 19 Services Programs” for carrying out activities under the  
 20 Head Start Act, \$1,000,000,000, which shall remain avail-  
 21 able through September 30, 2010. In addition,  
 22 \$1,100,000,000, which shall remain available through  
 23 September 30, 2010, is hereby appropriated for expansion  
 24 of Early Head Start programs, as described in section  
 25 645A of such Act: *Provided*, That of the funds provided  
 26 in this sentence, up to 10 percent shall be available for

1 the provision of training and technical assistance to such  
 2 programs consistent with section 645A(g)(2) of such Act,  
 3 and up to 3 percent shall be available for monitoring the  
 4 operation of such programs consistent with section 641A  
 5 of such Act.

6 For an additional amount for “Children and Families  
 7 Services Programs” for carrying out activities under sec-  
 8 tions 674 through 679 of the Community Services Block  
 9 Grant Act, \$200,000,000, which shall remain available  
 10 through September 30, 2010: *Provided*, That of the funds  
 11 provided under this paragraph, no part shall be subject  
 12 to paragraph (3) of section 674(b) of such Act: *Provided*  
 13 *further*, That not less than 5 percent of the funds allotted  
 14 to a State from the appropriation under this paragraph  
 15 shall be used under section 675C(b)(1) for benefits enroll-  
 16 ment coordination activities relating to the identification  
 17 and enrollment of eligible individuals and families in Fed-  
 18 eral, State and local benefit programs.

#### 19 ADMINISTRATION ON AGING

#### 20 AGING SERVICES PROGRAMS

21 For an additional amount for “Aging Services Pro-  
 22 grams,” \$100,000,000, of which \$67,000,000 shall be for  
 23 Congregate Nutrition Services and \$33,000,000 shall be  
 24 for Home-Delivered Nutrition Services: *Provided*, That

1 these funds shall remain available through September 30,  
2 2010.

3 OFFICE OF THE SECRETARY

4 OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH

5 INFORMATION TECHNOLOGY

6 (INCLUDING TRANSFER OF FUNDS)

7 For an additional amount for “Office of the National  
8 Coordinator for Health Information Technology”,  
9 \$5,000,000,000, to carry out title XIII of this Act which  
10 shall be available until expended: *Provided*, That of this  
11 amount, the Secretary of Health and Human Services  
12 shall transfer \$20,000,000 to the Director of the National  
13 Institute of Standards and Technology in the Department  
14 of Commerce for continued work on advancing health care  
15 information enterprise integration through activities such  
16 as technical standards analysis and establishment of con-  
17 formance testing infrastructure so long as such activities  
18 are coordinated with the Office of the National Coordi-  
19 nator for Health Information Technology: *Provided fur-*  
20 *ther*, That funds available under this heading shall become  
21 available for obligation only upon submission of an annual  
22 operating plan by the Secretary to the Committees on Ap-  
23 propriations of the House of Representatives and the Sen-  
24 ate: *Provided further*, That the Secretary shall provide to  
25 the Committees on Appropriations of the House of Rep-  
26 resentatives and the Senate a report on the actual obliga-

1 tions, expenditures, and unobligated balances for each  
 2 major set of activities not later than November 1, 2009  
 3 and every 6 months thereafter as long as funding under  
 4 this heading is available for obligation or expenditure.

5 OFFICE OF THE INSPECTOR GENERAL

6 For an additional amount for the Office of the In-  
 7 spector General, \$4,000,000 which shall remain available  
 8 until September 30, 2011.

9 PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY

10 FUND

11 (INCLUDING TRANSFER OF FUNDS)

12 For an additional amount for the “Public Health and  
 13 Social Services Emergency Fund” to carry out a program  
 14 of grants, contracts, and cooperative agreements to fund  
 15 projects and activities to reduce the incidence or severity  
 16 of preventable disabilities, diseases and conditions and to  
 17 invest in health workforce training, \$5,800,000,000, to re-  
 18 main available through September 30, 2011: *Provided*,  
 19 That the amount made available in this paragraph may  
 20 be transferred to another appropriation account of the De-  
 21 partment of Health and Human Services (“HHS”), as de-  
 22 termined by the Secretary of Health and Human Services  
 23 to be appropriate and upon notification of the Committees  
 24 on Appropriations of the House of Representatives and the  
 25 Senate, to be used for the purposes specified in this para-  
 26 graph, and the provisos of this paragraph shall apply to



1 any funds so transferred: *Provided further*, That of the  
2 amount provided in this paragraph, not less than  
3 \$1,000,000,000 shall be transferred to the Centers for  
4 Disease Control and Prevention (“CDC”) as an additional  
5 amount for screening activities related to preventable dis-  
6 abilities and chronic diseases and conditions, including  
7 counseling to prevent and mitigate the precursors of those  
8 disorders: *Provided further*, That of the amount provided  
9 in this paragraph, not less than \$750,000,000 shall be  
10 transferred to the CDC as an additional amount to carry  
11 out the immunization program authorized by section  
12 317(a), (j), and (k)(1) of the Public Health Service Act  
13 (“PHS Act”): *Provided further*, That of the amount pro-  
14 vided in this paragraph, not less than \$600,000,000 shall  
15 be transferred to the Health Resources and Services Ad-  
16 ministration as an additional amount to address health  
17 professions workforce shortages through scholarships, loan  
18 repayment, grants to training programs for equipment  
19 and activities to foster cross-state licensure agreements,  
20 authorized under sections 330 through 338, 737, 738, and  
21 846 of the PHS Act, of which \$200,000,000 shall be avail-  
22 able until expended for extending service contracts and the  
23 recapture and reallocation of funds in the event that a  
24 participant fails to fulfill their term of service: *Provided*  
25 *further*, That of the amount provided in this paragraph,

1 \$400,000,000 shall be transferred to the CDC as an addi-  
2 tional amount for the Healthy Communities program,  
3 which shall be used for multi-year awards: *Provided fur-*  
4 *ther*, That of the amount provided under this heading, not  
5 less than \$400,000,000 shall be transferred to the CDC  
6 for an additional amount for the screening and prevention  
7 of sexually-transmitted diseases, including HIV: *Provided*  
8 *further*, That of the amount provided in this paragraph,  
9 not less than \$75,000,000 shall be for smoking cessation  
10 activities, including laboratory testing and equipment:  
11 *Provided further*, That of the amount provided in this  
12 paragraph, not less than \$60,000,000 shall be made avail-  
13 able for additional research, data collection and surveys  
14 relating to prevention science and the current state of  
15 health, including equipment: *Provided further*, That of the  
16 amount provided in this paragraph, \$40,000,000 shall be  
17 transferred to the CDC for information technology im-  
18 provements to vital statistics record systems, including  
19 grants to State health departments for equipment: *Pro-*  
20 *vided further*, That of the amount provided in this para-  
21 graph, \$15,000,000 shall be made available for grants to  
22 States for equipment and maintenance related to newborn  
23 screening: *Provided further*, That not less than 1 percent  
24 of the amount provided in this paragraph shall be avail-  
25 able for evaluation of the activities supported by the

1 amounts provided in this paragraph: *Provided further*,  
2 That up to 1 percent of amounts made available in this  
3 paragraph may be used for administrative expenses in the  
4 office or division of HHS administering the funds: *Pro-*  
5 *vided further*, That the transfers required by this para-  
6 graph shall be completed within 30 days of enactment of  
7 this Act: *Provided further*, That the Secretary shall submit  
8 reports to the Committees on Appropriations of the House  
9 of Representatives and the Senate detailing the following  
10 information on the amounts appropriated in this para-  
11 graph: (1) an operating plan detailing activities to be sup-  
12 ported and timelines for expenditure, to be submitted no  
13 later than 120 days after the enactment of this Act; (2)  
14 15 day prior notification of any funds to be obligated prior  
15 to the submission of the operating plan; (3) an obligation  
16 and expenditure report to be submitted quarterly until all  
17 funds are fully expended; (4) a briefing 15 days prior to  
18 any new grant solicitation; (5) an evaluation plan that de-  
19 tails the manner in which the Secretary intends to evalu-  
20 ate the outcomes of activities supported, to be submitted  
21 120 days after enactment of this Act; (6) an outcomes  
22 report on all activities supported, to be submitted 1 year  
23 after enactment and every 6 months thereafter until all  
24 funds have been expended; and (7) a report on best prac-

1 tices to be submitted 18 months after enactment and every  
2 6 months thereafter until all funds have been expended.

3       For an additional amount for the “Public Health and  
4 Social Services Emergency Fund” to prepare for and re-  
5 spond to an influenza pandemic, \$870,000,000, for activi-  
6 ties including the development and purchase of vaccine,  
7 antivirals, necessary medical supplies, diagnostics, and  
8 other surveillance tools which shall be available until ex-  
9 pended: *Provided*, That products purchased with these  
10 funds may, at the discretion of the Secretary, be deposited  
11 in the Strategic National Stockpile: *Provided further*, That  
12 notwithstanding section 496(b) of the Public Health Serv-  
13 ice Act, funds may be used for the construction or renova-  
14 tion of privately owned facilities for the production of pan-  
15 demic influenza vaccines and other biologics, where the  
16 Secretary finds such a contract necessary to secure suffi-  
17 cient supplies of such vaccines or biologics: *Provided fur-*  
18 *ther*, That funds appropriated herein may be transferred  
19 to other appropriation accounts of the Department of  
20 Health and Human Services, as determined by the Sec-  
21 retary to be appropriate, to be used for the purposes speci-  
22 fied in this sentence.

## 1 DEPARTMENT OF EDUCATION

## 2 EDUCATION FOR THE DISADVANTAGED

3 For an additional amount for carrying out title I of  
4 the Elementary and Secondary Education Act of 1965,  
5 \$13,000,000,000, which shall be available through Sep-  
6 tember 30, 2010: *Provided*, That \$5,500,000,000 shall be  
7 for targeted grants under section 1125, \$5,500,000,000  
8 shall be for education finance incentive grants under sec-  
9 tion 1125A, and \$2,000,000,000 shall be for school im-  
10 provement grants under section 1003(g): *Provided further*,  
11 That each local educational agency receiving funds avail-  
12 able under this paragraph for sections 1125 and 1125A  
13 shall use not less than 15 percent of such funds for activi-  
14 ties serving children who are eligible pursuant to section  
15 1115(b)(1)(A)(ii) and programs in section 1112(b)(1)(K):  
16 *Provided further*, That each local educational agency re-  
17 ceiving funds available under this paragraph shall be re-  
18 quired to file with the State educational agency, no later  
19 than December 1, 2009, a school-by-school listing of per-  
20 pupil educational expenditures from State and local  
21 sources during the 2008–2009 academic year.

## 22 SCHOOL IMPROVEMENT PROGRAMS

23 For an additional amount for “School Improvement  
24 Programs,” \$17,070,000,000, which shall be available  
25 through September 30, 2010, for carrying out activities

1 authorized by part D of title II of the Elementary and  
 2 Secondary Education Act of 1965, subtitle B of title VII  
 3 of the McKinney-Vento Homeless Assistance Act  
 4 (“McKinney-Vento”), and section 804 of this Act: *Pro-*  
 5 *vided*, That the Secretary shall allot \$70,000,000 for  
 6 grants under McKinney-Vento to each State in proportion  
 7 to the number of homeless students identified by the State  
 8 during the 2007–2008 school year relative to the number  
 9 of such children identified nationally during that school  
 10 year: *Provided further*, That State educational agencies  
 11 shall subgrant the McKinney-Vento funds to local edu-  
 12 cational agencies on a competitive basis or according to  
 13 a formula based on the number of homeless students iden-  
 14 tified by the local educational agencies in the State: *Pro-*  
 15 *vided further*, That the Secretary shall distribute the  
 16 McKinney-Vento funds to the States not later than 60  
 17 days after the date of the enactment of this Act: *Provided*  
 18 *further*, That each State shall subgrant the McKinney-  
 19 Vento funds to local educational agencies not later than  
 20 120 days after receiving its grant from the Secretary.

## 21 SPECIAL EDUCATION

22 For an additional amount for “Special Education”  
 23 for carrying out parts B and C of the Individuals with  
 24 Disabilities Education Act (“IDEA”), \$13,500,000,000,  
 25 which shall remain available through September 30, 2010:

1 *Provided*, That if every State, as defined by section  
 2 602(31) of the IDEA, reaches its maximum allocation  
 3 under section 611(d)(3)(B)(iii) of the IDEA, and there  
 4 are remaining funds, such funds shall be proportionally  
 5 allocated to each State subject to the maximum amounts  
 6 contained in section 611(a)(2) of the IDEA: *Provided fur-*  
 7 *ther*, That by July 1, 2009, the Secretary of Education  
 8 shall reserve the amount needed for grants under section  
 9 643(e) of the IDEA, with any remaining funds to be allo-  
 10 cated in accordance with section 643(c) of the IDEA: *Pro-*  
 11 *vided further*, That the amount for section 611(b)(2) of  
 12 the IDEA shall be equal to the lesser of the amount avail-  
 13 able for that activity during fiscal year 2008, increased  
 14 by the amount of inflation as specified in section  
 15 619(d)(2)(B), or the percentage increase in the funds ap-  
 16 propriated under section 611(i): *Provided further*, That  
 17 each local educational agency receiving funds available  
 18 under this paragraph for part B shall use not less than  
 19 15 percent for special education and related services to  
 20 children described in section 619(a) of the IDEA.

## 21 REHABILITATION SERVICES AND DISABILITY RESEARCH

22 For an additional amount for “Rehabilitation Serv-  
 23 ices and Disability Research” for providing grants to  
 24 States to carry out the Vocational Rehabilitation Services  
 25 program under part B of title I and parts B and C of

1 chapter 1 and chapter 2 of title VII of the Rehabilitation  
 2 Act of 1973, \$610,000,000, which shall remain available  
 3 through September 30, 2010: *Provided*, That  
 4 \$500,000,000 shall be available for part B of title I of  
 5 the Rehabilitation Act: *Provided further*, That funds pro-  
 6 vided herein shall not be considered in determining the  
 7 amount required to be appropriated under section  
 8 100(b)(1) of the Rehabilitation Act of 1973 in any fiscal  
 9 year: *Provided further*, That, notwithstanding section  
 10 7(14)(A), the Federal share of the costs of vocational re-  
 11 habilitation services provided with the funds provided  
 12 herein shall be 100 percent.

#### 13 STUDENT FINANCIAL ASSISTANCE

14 For an additional amount for “Student Financial As-  
 15 sistance” to carry out subpart 1 of part A of title IV of  
 16 the Higher Education Act of 1965, \$13,869,000,000: *Pro-  
 17 vided*, That such funds shall be used to increase the max-  
 18 imum Pell Grant by \$281 for award year 2009–2010, to  
 19 increase the maximum Pell Grant by \$400 for the award  
 20 year 2010–2011, and to reduce or eliminate the Pell Grant  
 21 shortfall: *Provided further*, That these funds shall remain  
 22 available through September 30, 2011.

23 For an additional amount for “Student Financial As-  
 24 sistance” to carry out part E of title IV of the Higher  
 25 Education Act of 1965, \$61,000,000: *Provided*, That



1 these funds shall remain available through September 30,  
2 2010.

3 HIGHER EDUCATION

4 For an additional amount for “Higher Education”  
5 for carrying out activities under part A of title II of the  
6 Higher Education Act of 1965, \$100,000,000: *Provided*,  
7 That these funds shall remain available through Sep-  
8 tember 30, 2010.

9 HIGHER EDUCATION FACILITIES

10 For carrying out activities authorized under section  
11 803 of this Act, \$3,500,000,000: *Provided*, That these  
12 funds shall remain available through September 30, 2010.

13 DEPARTMENTAL MANAGEMENT

14 OFFICE OF THE INSPECTOR GENERAL

15 For an additional amount for the “Office of the In-  
16 spector General”, \$4,000,000, which shall remain avail-  
17 able through September 30, 2012, for salaries and ex-  
18 penses necessary for oversight and audit of programs,  
19 grants, and projects funded in this Act and administered  
20 by the Department of Education.

1                   RELATED AGENCIES  
2                   CORPORATION FOR NATIONAL AND  
3                   COMMUNITY SERVICE  
4                   OPERATING EXPENSES  
5                   (INCLUDING TRANSFER OF FUNDS)

6           For an additional amount for “Operating Expenses”  
7 to carry out the Domestic Volunteer Service Act of 1973  
8 (“1973 Act”) and the National and Community Service  
9 Act of 1990 (“1990 Act”), \$160,000,000, to remain avail-  
10 able through September 30, 2010: *Provided*, That funds  
11 made available in this paragraph may be used to provide  
12 adjustments to awards under subtitle C of title I of the  
13 1990 Act made prior to September 30, 2010 for which  
14 the Chief Executive Officer of the Corporation for Na-  
15 tional and Community Service (“CEO”) determines that  
16 a waiver of the Federal share limitation is warranted  
17 under section 2521.70 of title 45 of the Code of Federal  
18 Regulations: *Provided further*, That of the amount made  
19 available in this paragraph, not less than \$6,000,000 shall  
20 be transferred to “Salaries and Expenses” for necessary  
21 expenses relating to information technology upgrades:  
22 *Provided further*, That of the amount provided in this  
23 paragraph, \$10,000,000 shall be available for additional  
24 members in the Civilian Community Corps authorized  
25 under subtitle E of title I of the 1990 Act: *Provided fur-*

1 *ther*, That of the amount provided in this paragraph,  
2 \$1,000,000 shall be made available for a one-time supple-  
3 ment grant to State commissions on national and commu-  
4 nity service under section 126(a) of the 1990 Act without  
5 regard to the limitation on Federal share under section  
6 126(a)(2) of the 1990 Act: *Provided further*, That of the  
7 amount made available in this paragraph, not less than  
8 \$13,000,000 shall be for research activities authorized  
9 under subtitle H of title I of the 1990 Act: *Provided fur-*  
10 *ther*, That of the amount made available in this paragraph,  
11 not less than \$65,000,000 shall be for programs under  
12 title I, part A of the 1973 Act: *Provided further*, That  
13 funds provided in the previous proviso shall not be made  
14 available in connection with cost-share agreements author-  
15 ized under section 192A(g)(10) of the 1990 Act: *Provided*  
16 *further*, That of the funds available under this heading,  
17 up to 20 percent of funds allocated to grants authorized  
18 under section 124(b) of title I, subtitle C of the 1990 Act  
19 may be used to administer, reimburse, or support any na-  
20 tional service program under section 129(d)(2) of the  
21 1990 Act: *Provided further*, That, except as provided here-  
22 in and in addition to requirements identified herein, funds  
23 provided in this paragraph shall be subject to the terms  
24 and conditions under which funds were appropriated in  
25 fiscal year 2008: *Provided further*, That the CEO shall

1 provide the Committees on Appropriations of the House  
 2 of Representatives and the Senate a fiscal year 2009 oper-  
 3 ating plan for the funds appropriated in this paragraph  
 4 prior to making any Federal obligations of such funds in  
 5 fiscal year 2009, but not later than 90 days after the date  
 6 of enactment of this Act, and a fiscal year 2010 operating  
 7 plan for such funds prior to making any Federal obliga-  
 8 tions of such funds in fiscal year 2010, but not later than  
 9 November 1, 2009, that detail the allocation of resources  
 10 and the increased number of members supported by the  
 11 AmeriCorps programs: *Provided further*, That the CEO  
 12 shall provide to the Committees on Appropriations of the  
 13 House of Representatives and the Senate a report on the  
 14 actual obligations, expenditures, and unobligated balances  
 15 for each activity funded under this heading not later than  
 16 November 1, 2009, and every 6 months thereafter as long  
 17 as funding provided under this heading is available for ob-  
 18 ligation or expenditure.

19 NATIONAL SERVICE TRUST

20 (INCLUDING TRANSFER OF FUNDS)

21 For an additional amount for “National Service  
 22 Trust” established under subtitle D of title I of the Na-  
 23 tional and Community Service Act of 1990 (“1990 Act”),  
 24 \$40,000,000, which shall remain available until expended:  
 25 *Provided*, That the Corporation for National and Commu-

1 nity Service may transfer additional funds from the  
 2 amount provided within “Operating Expenses” for grants  
 3 made under subtitle C of title I of the 1990 Act to this  
 4 appropriation upon determination that such transfer is  
 5 necessary to support the activities of national service par-  
 6 ticipants and after notice is transmitted to the Committees  
 7 on Appropriations of the House of Representatives and the  
 8 Senate: *Provided further*, That the amount appropriated  
 9 for or transferred to the National Service Trust may be  
 10 invested under section 145(b) of the 1990 Act without re-  
 11 gard to the requirement to apportion funds under 31  
 12 U.S.C. 1513(b).

## 13 SOCIAL SECURITY ADMINISTRATION

### 14 LIMITATION ON ADMINISTRATIVE EXPENSES

#### 15 (INCLUDING TRANSFER OF FUNDS)

16 For an additional amount for “Limitation on Admin-  
 17 istrative Expenses”, \$890,000,000 shall be available as  
 18 follows:

19 (1) \$750,000,000 shall remain available until  
 20 expended for necessary expenses of the replacement  
 21 of the National Computer Center and the informa-  
 22 tion technology costs associated with such Center:  
 23 *Provided*, That the Commissioner of Social Security  
 24 shall notify the Committees on Appropriations of the  
 25 House of Representatives and the Senate not later

1       than 10 days prior to each public notice soliciting  
2       bids related to site selection and construction: *Pro-*  
3       *vided further*, That unobligated balances of funds  
4       not needed for this purpose may be used as de-  
5       scribed in subparagraph (2); and

6               (2) \$140,000,000 shall be available through  
7       September 30, 2010 for information technology ac-  
8       quisitions and research, which may include research  
9       and activities to facilitate the adoption of electronic  
10      medical records in disability claims and the transfer  
11      of funds to “Supplemental Security Income” to  
12      carry out activities under section 1110 of the Social  
13      Security Act: *Provided further*, That not later than  
14      10 days prior to the obligation of such funds, the  
15      Commissioner shall provide to the Committees on  
16      Appropriations of the House of Representatives and  
17      the Senate an operating plan describing the planned  
18      uses of such funds.

19                   OFFICE OF INSPECTOR GENERAL

20      For an additional amount for the “Office of Inspector  
21      General”, \$3,000,000, which shall remain available  
22      through September 30, 2012, for salaries and expenses  
23      necessary for oversight and audit of programs, projects,  
24      and activities funded in this Act and administered by the  
25      Social Security Administration.

## 1           GENERAL PROVISIONS—THIS TITLE

2           SEC. 801. REPORT ON THE IMPACT OF PAST AND  
3 FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—  
4 Section 8104 of the U.S. Troop Readiness, Veterans’  
5 Care, Katrina Recovery, and Iraq Accountability Appro-  
6 priations Act, 2007 (Public Law 110–28; 121 Stat. 189)  
7 is amended to read as follows:

8           **“SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE**  
9                                   **MINIMUM WAGE INCREASES.**

10           “(a) STUDY.—Beginning on the date that is 60 days  
11 after the date of enactment of this Act, and every year  
12 thereafter until the minimum wage in the respective terri-  
13 tory is \$7.25 per hour, the Government Accountability Of-  
14 fice shall conduct a study to—

15                   “(1) assess the impact of the minimum wage  
16 increases that occurred in American Samoa and the  
17 Commonwealth of the Northern Mariana Islands in  
18 2007 and 2008, as required under Public Law 110–  
19 28, on the rates of employment and the living stand-  
20 ards of workers, with full consideration of the other  
21 factors that impact rates of employment and the liv-  
22 ing standards of workers such as inflation in the  
23 cost of food, energy, and other commodities; and

24                   “(2) estimate the impact of any further wage  
25 increases on rates of employment and the living

1 standards of workers in American Samoa and the  
2 Commonwealth of the Northern Mariana Islands,  
3 with full consideration of the other factors that may  
4 impact the rates of employment and the living  
5 standards of workers, including assessing how the  
6 profitability of major private sector firms may be  
7 impacted by wage increases in comparison to other  
8 factors such as energy costs and the value of tax  
9 benefits.

10 “(b) REPORT.—No earlier than March 15, 2009, and  
11 not later than April 15, 2009, the Government Account-  
12 ability Office shall transmit its first report to Congress  
13 concerning the findings of the study required under sub-  
14 section (a). The Government Accountability Office shall  
15 transmit any subsequent reports to Congress concerning  
16 the findings of a study required by subsection (a) between  
17 March 15 and April 15 of each year.

18 “(c) ECONOMIC INFORMATION.—To provide suffi-  
19 cient economic data for the conduct of the study under  
20 subsection (a)—

21 “(1) the Department of Labor shall include and  
22 separately report on American Samoa and the Com-  
23 monwealth of the Northern Mariana Islands in its  
24 household surveys and establishment surveys;



1           “(2) the Bureau of Economic Analysis of the  
2       Department of Commerce shall include and sepa-  
3       rately report on American Samoa and the Common-  
4       wealth of the Northern Mariana Islands in its gross  
5       domestic product data; and

6           “(3) the Bureau of the Census of the Depart-  
7       ment of Commerce shall include and separately re-  
8       port on American Samoa and the Commonwealth of  
9       the Northern Mariana Islands in its population esti-  
10      mates and demographic profiles from the American  
11      Community Survey,

12 with the same regularity and to the same extent as the  
13 Department or each Bureau collects and reports such data  
14 for the 50 States. In the event that the inclusion of Amer-  
15 ican Samoa and the Commonwealth of the Northern Mar-  
16 iana Islands in such surveys and data compilations re-  
17 quires time to structure and implement, the Department  
18 of Labor, the Bureau of Economic Analysis, and the Bu-  
19 reau of the Census (as the case may be) shall in the in-  
20 terim annually report the best available data that can fea-  
21 sibly be secured with respect to such territories. Such in-  
22 terim reports shall describe the steps the Department or  
23 the respective Bureau will take to improve future data col-  
24 lection in the territories to achieve comparability with the  
25 data collected in the United States. The Department of

1 Labor, the Bureau of Economic Analysis, and the Bureau  
 2 of the Census, together with the Department of the Inte-  
 3 rior, shall coordinate their efforts to achieve such improve-  
 4 ments.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 this section shall take effect on the date of enactment of  
 7 this Act.

8 SEC. 802. FEDERAL COORDINATING COUNCIL FOR  
 9 COMPARATIVE CLINICAL EFFECTIVENESS RESEARCH. (a)  
 10 ESTABLISHMENT.—There is hereby established a Federal  
 11 Coordinating Council for Comparative Clinical Effective-  
 12 ness Research (in this section referred to as the “Coun-  
 13 cil”).

14 (b) PURPOSE; DUTIES.—The Council shall—

15 (1) assist the offices and agencies of the Fed-  
 16 eral Government, including the Departments of  
 17 Health and Human Services, Veterans Affairs, and  
 18 Defense, and other Federal departments or agencies,  
 19 to coordinate the conduct or support of comparative  
 20 clinical effectiveness and related health services re-  
 21 search; and

22 (2) advise the President and Congress on—

23 (A) strategies with respect to the infra-  
 24 structure needs of comparative clinical effective-  
 25 ness research within the Federal Government;

1 (B) appropriate organizational expendi-  
2 tures for comparative clinical effectiveness re-  
3 search by relevant Federal departments and  
4 agencies; and

5 (C) opportunities to assure optimum co-  
6 ordination of comparative clinical effectiveness  
7 and related health services research conducted  
8 or supported by relevant Federal departments  
9 and agencies, with the goal of reducing dupli-  
10 cative efforts and encouraging coordinated and  
11 complementary use of resources.

12 (c) MEMBERSHIP.—

13 (1) NUMBER AND APPOINTMENT.—The Council  
14 shall be composed of not more than 15 members, all  
15 of whom are senior Federal officers or employees  
16 with responsibility for health-related programs, ap-  
17 pointed by the President, acting through the Sec-  
18 retary of Health and Human Services (in this sec-  
19 tion referred to as the “Secretary”). Members shall  
20 first be appointed to the Council not later than 30  
21 days after the date of the enactment of this Act.

22 (2) MEMBERS.—

23 (A) IN GENERAL.—The members of the  
24 Council shall include one senior officer or em-  
25 ployee from each of the following agencies:

1 (i) The Agency for Healthcare Re-  
2 search and Quality.

3 (ii) The Centers for Medicare and  
4 Medicaid Services.

5 (iii) The National Institutes of  
6 Health.

7 (iv) The Office of the National Coor-  
8 dinator for Health Information Tech-  
9 nology.

10 (v) The Food and Drug Administra-  
11 tion.

12 (vi) The Veterans Health Administra-  
13 tion within the Department of Veterans  
14 Affairs.

15 (vii) The office within the Department  
16 of Defense responsible for management of  
17 the Department of Defense Military  
18 Health Care System.

19 (B) QUALIFICATIONS.—At least half of the  
20 members of the Council shall be physicians or  
21 other experts with clinical expertise.

22 (3) CHAIRMAN; VICE CHAIRMAN.—The Sec-  
23 retary shall serve as Chairman of the Council and  
24 shall designate a member to serve as Vice Chairman.

25 (d) REPORTS.—

1           (1) INITIAL REPORT.—Not later than June 30,  
2           2009, the Council shall submit to the President and  
3           the Congress a report containing information de-  
4           scribing Federal activities on comparative clinical ef-  
5           fectiveness research and recommendations for addi-  
6           tional investments in such research conducted or  
7           supported from funds made available for allotment  
8           by the Secretary for comparative clinical effective-  
9           ness research in this Act.

10          (2) ANNUAL REPORT.—The Council shall sub-  
11          mit to the President and Congress an annual report  
12          regarding its activities and recommendations con-  
13          cerning the infrastructure needs, appropriate organi-  
14          zational expenditures and opportunities for better  
15          coordination of comparative clinical effectiveness re-  
16          search by relevant Federal departments and agen-  
17          cies.

18          (e) STAFFING; SUPPORT.—From funds made avail-  
19          able for allotment by the Secretary for comparative clinical  
20          effectiveness research in this Act, the Secretary shall make  
21          available not more than 1 percent to the Council for staff  
22          and administrative support.

23          SEC. 803. HIGHER EDUCATION MODERNIZATION,  
24          RENOVATION, AND REPAIR. (a) PURPOSE.—Grants  
25          awarded under this section shall be for the purpose of

1 modernizing, renovating, and repairing institution of high-  
2 er education facilities that are primarily used for instruc-  
3 tion and research.

4 Funds may also be used for leasing, purchasing or  
5 upgrading equipment, designed to strengthen and support  
6 academic and technical skill achievement.

7 (b) GRANTS TO STATE HIGHER EDUCATION AGEN-  
8 CIES.—

9 (1) FORMULA.—From the amounts appro-  
10 priated to carry out this section, the Secretary of  
11 Education shall allocate funds to State higher edu-  
12 cation agencies based on the number of students at-  
13 tending institutions of higher education, with the  
14 State higher education agency in each State receiv-  
15 ing an amount that is in proportion to the number  
16 of full-time equivalent undergraduate students at-  
17 tending institutions of higher education in such  
18 State for the most recent fiscal year for which there  
19 are data available, relative to the total number of  
20 full-time equivalent undergraduate students attend-  
21 ing institutions of higher education in all States for  
22 such fiscal year.

23 (2) APPLICATION.—To be eligible to receive an  
24 allocation from the Secretary under paragraph (1),  
25 a State higher education agency shall submit an ap-

1       plication to the Secretary at such time and in such  
2       manner as the Secretary may reasonably require.

3           (3) REALLOCATION.—Amounts allocated to a  
4       State higher education agency under this section  
5       that are not obligated by such agency within 12  
6       months of the date the agency receives such  
7       amounts shall be returned to the Secretary, and the  
8       Secretary shall reallocate such amounts to State  
9       higher education agencies in other States on the  
10      same basis as the original allocations under para-  
11      graph (1).

12          (4) ADMINISTRATION AND OVERSIGHT EX-  
13      PENSES.—From the amounts appropriated to carry  
14      out this section, not more than \$3,000,000 shall be  
15      available to the Secretary for administrative and  
16      oversight expenses related to carrying out this sec-  
17      tion.

18      (c) USE OF GRANTS BY STATE HIGHER EDUCATION  
19      AGENCIES.—

20          (1) SUBGRANTS TO INSTITUTIONS OF HIGHER  
21      EDUCATION.—

22           (A) IN GENERAL.—Except as provided in  
23           paragraph (2), each State higher education  
24           agency receiving an allocation under subsection

25           (b)(1) shall use the amount allocated to award

1 subgrants to institutions of higher education  
2 within the State to carry out projects in accord-  
3 ance with subsection (d)(1).

4 (B) SUBGRANT AWARD ALLOCATION.—A  
5 State higher education agency shall award sub-  
6 grants to institutions of higher education under  
7 this section based on the demonstrated need of  
8 each institution for facility modernization, ren-  
9 ovation, repair, and equipment.

10 (C) COMMUNITY COLLEGES.—Notwith-  
11 standing, subparagraph (B), the percentage of  
12 funds allocated to community colleges in each  
13 State shall be no less than the percentage of  
14 full-time equivalent students attending commu-  
15 nity colleges relative to the total number of full-  
16 time equivalent undergraduate students attend-  
17 ing public institutions of higher education in  
18 the State.

19 (D) PRIORITY CONSIDERATIONS.—In  
20 awarding subgrants under this section, each  
21 State higher education agency shall give pri-  
22 ority consideration to institutions of higher edu-  
23 cation with any of the following characteristics:



1 (i) The institution is eligible for Fed-  
 2 eral assistance under title III or title V of  
 3 the Higher Education Act of 1965.

4 (ii) The institution was impacted by a  
 5 major disaster or emergency declared by  
 6 the President (as defined in section 102(2)  
 7 of the Robert T. Stafford Disaster Relief  
 8 and Emergency Assistance Act (42 U.S.C.  
 9 5122(2))), including an institution affected  
 10 by a Gulf hurricane disaster, as such term  
 11 is defined in section 824(g)(1) of the High-  
 12 er Education Act of 1965 (20 U.S.C.  
 13 11611–3(g)(1)).

14 (iii) The institution demonstrates that  
 15 the proposed project or projects to be car-  
 16 ried out with a subgrant under this section  
 17 will increase the energy efficiency of the in-  
 18 stitution’s facilities and comply with the  
 19 LEED Green Building Rating System.

20 (2) ADMINISTRATIVE AND OVERSIGHT EX-  
 21 PENSES.—Of the allocation amount received under  
 22 subsection (b)(1), a State higher education agency  
 23 may reserve not more than 5 percent of such  
 24 amount, or \$500,000, whichever is less, for adminis-

1 trative and oversight expenses related to carrying  
2 out this section.

3 (d) USE OF SUBGRANTS BY INSTITUTIONS OF HIGH-  
4 ER EDUCATION.—

5 (1) PERMISSIBLE USES OF FUNDS.—An institu-  
6 tion of higher education receiving a subgrant under  
7 this section shall use such subgrant to modernize,  
8 renovate, or repair facilities of the institution that  
9 are primarily used for instruction, research, or stu-  
10 dent housing, which may include any of the fol-  
11 lowing:

12 (A) Repair, replacement, or installation of  
13 roofs, electrical wiring, plumbing systems, sew-  
14 age systems, or lighting systems.

15 (B) Repair, replacement, or installation of  
16 heating, ventilation, or air conditioning systems  
17 (including insulation).

18 (C) Compliance with fire and safety codes,  
19 including—

20 (i) professional installation of fire or  
21 life safety alarms; and

22 (ii) modernizations, renovations, and  
23 repairs that ensure that the institution's  
24 facilities are prepared for emergencies,

1           such as improving building infrastructure  
2           to accommodate security measures.

3           (D) Retrofitting necessary to increase the  
4           energy efficiency of the institution's facilities.

5           (E) Renovations to the institution's facili-  
6           ties necessary to comply with accessibility re-  
7           quirements in the Americans with Disabilities  
8           Act of 1990 (42 U.S.C. 12101 et seq.) and sec-  
9           tion 504 of the Rehabilitation Act of 1973 (29  
10          U.S.C. 794).

11          (F) Abatement or removal of asbestos from  
12          the institution's facilities.

13          (G) Modernization, renovation, and repair  
14          relating to improving science and engineering  
15          laboratories, libraries, and instructional facili-  
16          ties.

17          (H) Upgrading or installation of edu-  
18          cational technology infrastructure.

19          (I) Installation or upgrading of renewable  
20          energy generation and heating systems, includ-  
21          ing solar, photovoltaic, wind, biomass (including  
22          wood pellet), or geothermal systems, or compo-  
23          nents of such systems.

1           (J) Other modernization, renovation, or re-  
 2           pair projects or purchase of equipment that are  
 3           primarily for instruction or research.

4           (2) PROHIBITED USES OF FUNDS.—No funds  
 5           awarded under this section may be used for—

6           (A) the maintenance of systems, equip-  
 7           ment, or facilities, including maintenance asso-  
 8           ciated with any permissible uses of funds de-  
 9           scribed in paragraph (1);

10          (B) modernization, renovation, or repair of  
 11          stadiums or other facilities primarily used for  
 12          athletic contests or exhibitions or other events  
 13          for which admission is charged to the general  
 14          public;

15          (C) modernization, renovation, or repair of  
 16          facilities—

17               (i) used for sectarian instruction, reli-  
 18               gious worship, or a school or department  
 19               of divinity; or

20               (ii) in which a substantial portion of  
 21               the functions of the facilities are subsumed  
 22               in a religious mission; or

23          (D) construction of new facilities.

24          (e) APPLICATION OF GEPA.—The grant program au-  
 25          thorized in this section is an applicable program (as that

1 term is defined in section 400 of the General Education  
2 Provisions Act (20 U.S.C. 1221)) subject to section 439  
3 of such Act (20 U.S.C. 1232b). The Secretary shall, not-  
4 withstanding section 437 of such Act (20 U.S.C. 1232)  
5 and section 553 of title 5, United States Code, establish  
6 such program rules as may be necessary to implement  
7 such grant program by notice in the Federal Register.

8 (f) REPORTING.—

9 (1) REPORTS BY INSTITUTIONS.—Not later  
10 than September 30, 2011, each institution of higher  
11 education receiving a subgrant under this section  
12 shall submit to the State higher education agency  
13 awarding such subgrant a report describing the  
14 projects for which such subgrant was received, in-  
15 cluding—

16 (A) a description of each project carried  
17 out, or planned to be carried out, with such  
18 subgrant, including the types of modernization,  
19 renovation, and repair to be completed by each  
20 such project;

21 (B) the total amount of funds received by  
22 the institution under this section and the  
23 amount of such funds expended, as of the date  
24 of the report, on the such projects;

1 (C) the actual or planned cost of each such  
2 project and any demonstrable or expected aca-  
3 demic, energy, or environmental benefits result-  
4 ing from such project; and

5 (D) the total number of contracts, and  
6 amount of funding for such contracts, awarded  
7 by the institution to carry out such projects, as  
8 of the date of such report, including the num-  
9 ber of contracts, and amount of funding for  
10 such contracts, awarded to local, small, minor-  
11 ity-owned, women-owned, and veteran-owned  
12 businesses, as such terms are defined by the  
13 Small Business Act.

14 (2) REPORTS BY STATES.—Not later than De-  
15 cember 31, 2011, each State higher education agen-  
16 cy receiving a grant under this section shall submit  
17 to the Secretary a report containing a compilation of  
18 all of the reports under paragraph (1) submitted to  
19 the agency by institutions of higher education.

20 (3) REPORTS BY THE SECRETARY.—Not later  
21 than March 31, 2012, the Secretary shall submit to  
22 the Committee on Education and Labor in the  
23 House of Representatives and the Committee on  
24 Health, Education, Labor, and Pensions in the Sen-  
25 ate and Committees on Appropriations of the House

1 of Representatives and the Senate a report on  
2 grants and subgrants made under this section, in-  
3 cluding the information described in paragraph (1).

4 (g) DEFINITIONS.—In this section:

5 (1) INSTITUTION OF HIGHER EDUCATION.—The  
6 term “institution of higher education” has the  
7 meaning given such term in section 101 of the High-  
8 er Education Act of 1965.

9 (2) LEED GREEN BUILDING RATING SYS-  
10 TEM.—The term “LEED Green Building Rating  
11 System” means the United States Green Building  
12 Council Leadership in Energy and Environmental  
13 Design green building rating standard referred to as  
14 the LEED Green Building Rating System.

15 (3) SECRETARY.—The term “Secretary” means  
16 the Secretary of Education.

17 (4) STATE.—The term “State” has the mean-  
18 ing given such term in section 103 of the Higher  
19 Education Act of 1965 (20 U.S.C. 1003).

20 (5) STATE HIGHER EDUCATION AGENCY.—The  
21 term “State higher education agency” has the mean-  
22 ing given such term in section 103 of the Higher  
23 Education Act of 1965 (20 U.S.C. 1003).

24 (6) COMMUNITY COLLEGE.—The term “Com-  
25 munity College” means a public non-profit institu-

1       tion of higher education as defined in section 101(a)  
 2       of the Higher Education Act, whose highest degree  
 3       offered is predominantly the associate degree.

4       SEC. 804. GRANTS FOR SCHOOL RENOVATION, RE-  
 5 PAIR, AND CONSTRUCTION. (a) ALLOCATION OF FUNDS.—

6               (1) RESERVATIONS.—

7                       (A) OUTLYING AREAS AND BUREAU OF IN-  
 8 DIAN EDUCATION.—From the funds appro-  
 9 priated to carry out this section, the Secretary  
 10 shall reserve 1 percent to provide assistance  
 11 under this section to the outlying areas and for  
 12 payments to the Secretary of the Interior to  
 13 provide assistance consistent with this section  
 14 to schools funded by the Bureau of Indian Edu-  
 15 cation. Funds reserved under this subparagraph  
 16 shall be distributed by the Secretary among the  
 17 outlying areas and the Secretary of the Interior  
 18 on the basis of relative need, as determined by  
 19 the Secretary, in accordance with the purposes  
 20 of this section.

21               (B) IMPACT AID SCHOOLS.—

22                       (i) IN GENERAL.—From the funds ap-  
 23 propriated to carry out this section, the  
 24 Secretary shall reserve 2 percent to make  
 25 payments and award grants to local edu-



1 cational agencies under section 8007 of the  
2 Elementary and Secondary Education Act  
3 of 1965 (20 U.S.C. 7707).

4 (ii) CONSTRUCTION PAYMENTS AU-  
5 THORIZED.—

6 (I) IN GENERAL.—From 40 per-  
7 cent of the amount reserved under  
8 clause (i), the Secretary shall make  
9 payments in accordance with section  
10 8007(a) of the Elementary and Sec-  
11 ondary Education Act of 1965 (20  
12 U.S.C. 7707(a)), except that the  
13 amount of such payments shall be de-  
14 termined in accordance with subclause  
15 (II).

16 (II) AMOUNT OF PAYMENTS.—  
17 The Secretary shall make a payment  
18 to each local educational agency eligi-  
19 ble for a payment under section  
20 8007(a) of the Elementary and Sec-  
21 ondary Education Act of 1965 (20  
22 U.S.C. 7707(a)) in an amount that  
23 bears the same relationship to the  
24 funds made available under subclause  
25 (I) as the number of children deter-

mined under subparagraphs (B), (C),  
 and (D)(i) of section 8003(a)(1) of  
 the Elementary and Secondary Edu-  
 cation Act of 1965 (20 U.S.C.  
 7703(a)(1)(B), (C), and (D)(i)) who  
 were in average daily attendance in  
 the local educational agency for the  
 most recent year for which such infor-  
 mation is available bears to the num-  
 ber of such children in all the local  
 educational agencies eligible for a pay-  
 ment under section 8007(a) of the El-  
 ementary and Secondary Education  
 Act of 1965 (20 U.S.C. 7707(a)).

(iii) SCHOOL FACILITY EMERGENCY  
 AND MODERNIZATION GRANTS AUTHOR-  
 IZED.—

(I) IN GENERAL.—From 60 per-  
 cent of the amount reserved under  
 clause (i), the Secretary—

(aa) shall award emergency  
 grants in accordance with section  
 8007(b) of the Elementary and  
 Secondary Education Act of  
 1965 (20 U.S.C. 7703(b)) to eli-

1           gible local educational agencies to  
2           enable the agencies to carry out  
3           emergency repairs of school fa-  
4           cilities; and

5                   (bb) may award moderniza-  
6           tion grants in accordance with  
7           section 8007(b) of the Elemen-  
8           tary and Secondary Education  
9           Act of 1965 (20 U.S.C. 7703(b))  
10          to eligible local educational agen-  
11          cies to enable the agencies to  
12          carry out the modernization of  
13          school facilities.

14                   (II) PROVISIONS NOT TO  
15          APPLY.—Paragraphs (2), (3), (4),  
16          (5)(A)(i), and (5)(A)(vi) of section  
17          8007(b) of the Elementary and Sec-  
18          ondary Education Act of 1965 (20  
19          U.S.C. 7703(b)(2), (3), (4), (5)(A)(i),  
20          and (5)(A)(vi)) shall not apply to  
21          grants made under this clause.

22                   (III) ELIGIBILITY.—A local edu-  
23          cational agency is eligible to receive a  
24          grant under this clause if the local  
25          educational agency—

1 (aa) is eligible to receive a  
2 payment under section 8002 or  
3 8003 of the Elementary and Sec-  
4 ondary Education Act of 1965  
5 (20 U.S.C. 7702 and 7703) for  
6 fiscal year 2008; and

7 (bb) has—

8 (AA) a total taxable as-  
9 sessed value of real property  
10 that may be taxed for school  
11 purposes of less than  
12 \$100,000,000; or

13 (BB) an assessed value  
14 of real property per student  
15 that may be taxed for school  
16 purposes that is less than  
17 the average of the assessed  
18 value of real property per  
19 student that may be taxed  
20 for school purposes in the  
21 State in which the local edu-  
22 cational agency is located.

23 (IV) CRITERIA FOR GRANTS.—In  
24 awarding grants under this clause, the

1 Secretary shall consider the following  
2 criteria:

3 (aa) Whether the facility  
4 poses a health or safety threat to  
5 students and school personnel,  
6 including noncompliance with  
7 building codes and inaccessibility  
8 for persons with disabilities, or  
9 whether the existing building ca-  
10 pacity meets the needs of the  
11 current enrollment and supports  
12 the provision of comprehensive  
13 educational services to meet cur-  
14 rent standards in the State in  
15 which the local educational agen-  
16 cy is located.

17 (bb) The extent to which the  
18 new design and proposed con-  
19 struction utilize energy efficient  
20 and recyclable materials.

21 (cc) The extent to which the  
22 new design and proposed con-  
23 struction utilizes non-traditional  
24 or alternative building methods  
25 to expedite construction and

1 project completion and maximize  
2 cost efficiency.

3 (dd) The feasibility of  
4 project completion within 24  
5 months from award.

6 (ee) The availability of other  
7 resources for the proposed  
8 project.

9 (C) ADMINISTRATION AND OVERSIGHT.—

10 The Secretary may, in addition, reserve up to  
11 \$5,000,000 of the amount appropriated to carry  
12 out this section for administration and over-  
13 sight of this section.

14 (2) ALLOCATION TO STATE EDUCATIONAL  
15 AGENCIES.—

16 (A) IN GENERAL.—Except as provided in  
17 subparagraph (B), after making the reserva-  
18 tions described in paragraph (1), from the re-  
19 mainder of the appropriated funds described in  
20 paragraph (1), the Secretary shall allocate to  
21 each State educational agency serving a State  
22 an amount that bears the same relation to the  
23 remainder as the amount the State received  
24 under part A of title I of the Elementary and  
25 Secondary Education Act of 1965 (20 U.S.C.

1           6311 et seq.) for fiscal year 2008 bears to the  
2           amount all States received under such part for  
3           fiscal year 2008.

4           (B) MINIMUM AMOUNT.—No State edu-  
5           cational agency shall receive less than 0.5 per-  
6           cent of the amount allocated under this para-  
7           graph.

8           (3) SPECIAL RULE.—The Secretary shall make  
9           and distribute the reservations and allocations de-  
10          scribed in paragraphs (1) and (2) not later than 60  
11          days after the date of enactment of this Act.

12         (b) WITHIN-STATE ALLOTMENTS.—

13           (1) ADMINISTRATIVE COSTS.—

14           (A) STATE EDUCATIONAL AGENCY ADMIN-  
15           ISTRATION.—Except as provided in subpara-  
16           graph (C), each State educational agency may  
17           reserve not more than 1 percent of its allocation  
18           under subsection (a)(2) or \$2,000,000, which-  
19           ever is less, for the purpose of administering  
20           the distribution of grants under this subsection.

21           (B) REQUIRED USES.—Each State edu-  
22           cational agency shall use a portion of the re-  
23           served funds under subparagraph (A) to estab-  
24           lish or support a State-level database of public

1 school facility inventory, condition, design, and  
2 utilization.

3 (C) STATE ENTITY ADMINISTRATION.—If a  
4 State educational agency transfers funds to a  
5 State entity described in paragraph (3)(A)(ii),  
6 the State educational agency shall transfer to  
7 such entity 0.75 percent of the amount reserved  
8 under subparagraph (A) for the purpose of ad-  
9 ministering the distribution of grants under this  
10 subsection.

11 (2) ALLOTMENTS TO THE LOCAL EDUCATIONAL  
12 AGENCIES WITH THE MOST POOR CHILDREN.—

13 (A) IN GENERAL.—

14 (i) ELIGIBLE LOCAL EDUCATIONAL  
15 AGENCY.—In this subparagraph, the term  
16 “eligible local educational agency” means a  
17 local educational agency that is 1 of the  
18 100 local educational agencies in the  
19 United States that serve the most students  
20 who are poor children.

21 (ii) ALLOTMENT.—Not later than 60  
22 days after the date a State educational  
23 agency receives an allocation from the Sec-  
24 retary under this section, the State edu-  
25 cational agency shall allot to each eligible



1 local educational agency in the State an  
2 amount determined under clause (iii) to be  
3 used consistent with subsection (c) for  
4 school repair, renovation, and construction.

5 (iii) DETERMINATION OF AMOUNT.—

6 An allotment under this subparagraph to  
7 an eligible local educational agency shall be  
8 in an amount that bears the same relation  
9 to the amount allocated to the State under  
10 this section and not reserved under para-  
11 graph (1), as the amount of funds under  
12 part A of title I of the Elementary and  
13 Secondary Education Act of 1965 (20  
14 U.S.C. 6311 et seq.) that the eligible local  
15 educational agency received from the State  
16 for the most recent fiscal year for which  
17 data is available bears to the total amount  
18 of such funds received by all local edu-  
19 cational agencies in the State under such  
20 part for the most recent fiscal year for  
21 which data is available.

22 (B) NO ELIGIBILITY FOR COMPETITIVE  
23 GRANTS.—No local educational agency receiving  
24 funding under subparagraph (A) shall be eligi-  
25 ble for funding under paragraph (3).

1 (C) PRIORITY IN FUNDING GREEN  
 2 PROJECTS.—A local educational agency that re-  
 3 ceives funding under subparagraph (A) shall  
 4 give priority to funding school repair, renova-  
 5 tion, or construction projects that are certified,  
 6 verified, or consistent with any applicable provi-  
 7 sions of—

8 (i) the LEED Green Building Rating  
 9 System;

10 (ii) Energy Star;

11 (iii) the CHPS Criteria;

12 (iv) Green Globes; or

13 (v) an equivalent program adopted by  
 14 the State or another jurisdiction with au-  
 15 thority over the local educational agency.

16 (3) RESERVATION FOR COMPETITIVE SCHOOL  
 17 RENOVATION, REPAIR, AND CONSTRUCTION GRANTS  
 18 TO LOCAL EDUCATIONAL AGENCIES.—

19 (A) IN GENERAL.—After making the res-  
 20 ervation described in paragraph (1), from the  
 21 remainder of the funds allocated to a State edu-  
 22 cational agency under this section, the State  
 23 educational agency shall—

24 (i) award grants to local educational  
 25 agencies to be used, consistent with sub-

1 section (c), for school renovation, repair,  
2 and construction; or

3 (ii) if such State educational agency is  
4 not responsible for the financing of edu-  
5 cation facilities, transfer such funds to the  
6 State entity responsible for the financing  
7 of education facilities (referred to in this  
8 section as the “State entity”) to award  
9 grants to local educational agencies to be  
10 used as described in clause (i).

11 (B) COMPETITIVE GRANTS TO LOCAL EDU-  
12 CATIONAL AGENCIES.—The State educational  
13 agency or State entity shall carry out a pro-  
14 gram awarding grants, on a competitive basis,  
15 to local educational agencies for the purpose de-  
16 scribed in subparagraph (A). Of the total  
17 amount allocated to the State under this section  
18 and not reserved under paragraph (1), the  
19 State educational agency or State entity, shall  
20 carry out the following:

21 (i) Award to high-need local edu-  
22 cational agencies, in the aggregate, not less  
23 than an amount which bears the same re-  
24 lationship to such total amount as the ag-  
25 gregate amount such high-need local edu-

1 cational agencies received under part A of  
2 title I of the Elementary and Secondary  
3 Education Act of 1965 (20 U.S.C. 6311 et  
4 seq.) for fiscal year 2008 bears to the ag-  
5 gregate amount received for such fiscal  
6 year under such part by all local edu-  
7 cational agencies in the State, reduced by  
8 the total amount the State educational  
9 agency has allotted under paragraph (2).

10 (ii) Award to rural local educational  
11 agencies, in the aggregate, not less than an  
12 amount which bears the same relationship  
13 to such total amount as the aggregate  
14 amount such rural local educational agen-  
15 cies received under such part for fiscal  
16 year 2008 bears to the aggregate amount  
17 received for such fiscal year under such  
18 part by all local educational agencies in the  
19 State.

20 (iii) Award the remaining funds to  
21 local educational agencies not receiving an  
22 award under clause (i) or (ii), including  
23 high-need local educational agencies and  
24 rural local educational agencies that did  
25 not receive such an award.

1 (C) CRITERIA FOR AWARDING COMPETITIVE GRANTS.—In awarding competitive grants  
2 under this paragraph, a State educational agency or State entity shall take into account the  
3 following criteria:  
4

5  
6 (i) PERCENTAGE OF POOR CHILDREN.—The percentage of poor children in  
7 a local educational agency.  
8

9 (ii) NEED FOR SCHOOL RENOVATION, REPAIR, AND CONSTRUCTION.—The need  
10 of a local educational agency for school renovation, repair, and construction, as  
11 demonstrated by the condition of the public school facilities of the local educational  
12 agency.  
13

14 (iii) GREEN SCHOOLS.—The extent to which the local educational agency will  
15 make use of green practices that are certified, verified, or consistent with any applicable provisions of—  
16

- 17 (I) the LEED Green Building Rating System;  
18  
19 (II) Energy Star;  
20  
21 (III) the CHPS Criteria;  
22  
23 (IV) Green Globes; or  
24  
25

1 (V) an equivalent program adopt-  
2 ed by the State or another jurisdiction  
3 with authority over the local edu-  
4 cational agency.

5 (iv) CAPABILITY TO IMPLEMENT  
6 PROJECTS EXPEDITIOUSLY.—The capa-  
7 bility of the local educational agency to im-  
8 plement school renovation, repair, or con-  
9 struction projects expeditiously.

10 (v) FISCAL CAPACITY.—The fiscal ca-  
11 pacity of a local educational agency to  
12 meet the needs of the local educational  
13 agency for renovation, repair, and con-  
14 struction of public school facilities without  
15 assistance under this section, including the  
16 ability of the local educational agency to  
17 raise funds through the use of local bond-  
18 ing capacity and otherwise.

19 (vi) LIKELIHOOD OF MAINTAINING  
20 THE FACILITY.—The likelihood that the  
21 local educational agency will maintain, in  
22 good condition, any facility whose renova-  
23 tion, repair, or construction is assisted  
24 under this section.

1 (vii) CHARTER SCHOOL ACCESS TO  
 2 FUNDING.—In the case of a local edu-  
 3 cational agency that proposes to fund a  
 4 renovation, repair, or construction project  
 5 for a charter school, the extent to which  
 6 the school has access to funding for the  
 7 project through the financing methods  
 8 available to other public schools or local  
 9 educational agencies in the State.

10 (D) POSSIBLE MATCHING REQUIRE-  
 11 MENT.—

12 (i) IN GENERAL.—A State educational  
 13 agency or State entity may require local  
 14 educational agencies to match competitive  
 15 grant funds awarded under this section.

16 (ii) MATCH AMOUNT.—The amount of  
 17 a match described in clause (i) may be es-  
 18 tablished by using a sliding scale that  
 19 takes into account the relative poverty of  
 20 the population served by the local edu-  
 21 cational agency.

22 (c) RULES APPLICABLE TO SCHOOL RENOVATION,  
 23 REPAIR, AND CONSTRUCTION.—With respect to funds  
 24 made available under this section that are used for school

1 renovation, repair, and construction, the following rules  
2 shall apply:

3 (1) PERMISSIBLE USES OF FUNDS.—School  
4 renovation, repair, and construction shall be limited  
5 to 1 or more of the following:

6 (A) Upgrade, repair, construct, or replace  
7 existing or planned public school building sys-  
8 tems and components to improve the quality of  
9 education and ensure the health and safety of  
10 students and staff, including—

11 (i) repairing, replacing, or con-  
12 structing early learning facilities (including  
13 renovation of existing facilities to serve  
14 children under 5 years of age);

15 (ii) repairing, replacing, or installing  
16 roofs, windows, doors, electrical wiring,  
17 plumbing systems, or sewage systems;

18 (iii) repairing, replacing, or installing  
19 heating, ventilation, or air conditioning  
20 systems (including insulation); and

21 (iv) bringing public schools into com-  
22 pliance with fire and safety codes.

23 (B) Modifications necessary to reduce the  
24 consumption of electricity, natural gas, oil,  
25 water, coal, or land.



1 (C) Modifications necessary to make public  
2 school facilities accessible to comply with the  
3 Americans with Disabilities Act of 1990 (42  
4 U.S.C. 12101 et seq.) and section 504 of the  
5 Rehabilitation Act of 1973 (29 U.S.C. 794).

6 (D) Improve environmental conditions of  
7 school sites, including asbestos abatement or re-  
8 moval, and the reduction or elimination of  
9 human exposure to lead-based paint, mold, or  
10 mildew.

11 (E) Upgrade or install educational tech-  
12 nology infrastructure to ensure that students  
13 have access to up-to-date educational tech-  
14 nology.

15 (F) Broaden or improve the use of school  
16 buildings and grounds to the community to im-  
17 prove educational outcomes.

18 (2) IMPERMISSIBLE USES OF FUNDS.—No  
19 funds received under this section may be used for—

20 (A) payment of maintenance costs in con-  
21 nection with any projects constructed in whole  
22 or part with Federal funds provided under this  
23 section;

24 (B) purchase or upgrade of vehicles;

1 (C) stadiums or other facilities primarily  
2 used for athletic contests or exhibitions or other  
3 events for which admission is charged to the  
4 general public;

5 (D) improvement or construction of stand-  
6 alone facilities whose purpose is not the edu-  
7 cation of children, including central office ad-  
8 ministration or operations or logistical support  
9 facilities; or

10 (E) purchase of information technology  
11 hardware, including computers, monitors, or  
12 printers.

13 (3) SUPPLEMENT, NOT SUPPLANT.—

14 (A) IN GENERAL.—Except as provided in  
15 subparagraph (B) and excluding the uses de-  
16 scribed in paragraph (1)(C), a local educational  
17 agency shall use Federal funds received under  
18 this section only to supplement the amount of  
19 funds that would, in the absence of such Fed-  
20 eral funds, be made available from non-Federal  
21 sources for school renovation, repair, and con-  
22 struction.

23 (B) EXCEPTION.—A local educational  
24 agency that is located in a State that is under  
25 a court order to finance school facilities shall

1 not be subject to the requirement under sub-  
2 paragraph (A).

3 (d) QUALIFIED BIDDERS; COMPETITION.—Each local  
4 educational agency that receives funds under this section  
5 shall ensure that, if the local educational agency carries  
6 out renovation, repair, or construction through a contract,  
7 any such contract process ensures the maximum number  
8 of qualified bidders, including small, minority, and women-  
9 owned businesses, through full and open competition.

10 (e) REPORTING.—

11 (1) LOCAL REPORTING.—Each local educational  
12 agency receiving funds made available under this  
13 section shall submit a report to the State edu-  
14 cational agency, at such time as the State edu-  
15 cational agency may require describing the use of  
16 such funds for school renovation, repair, and con-  
17 struction, including the following:

18 (A) Type and description of work com-  
19 pleted.

20 (B) The source of any non-federal funds  
21 used to complete the project.

22 (C) Person hours needed at various wage  
23 levels to complete the project.

24 (D) Anticipated energy or natural resource  
25 savings.

1           (2) STATE REPORTING.—Each State edu-  
2           cational agency receiving funds made available under  
3           this section shall submit to the Secretary, not later  
4           than December 31, 2010, a report on the use of  
5           funds received under subsection (a)(2) and made  
6           available to local educational agencies for school ren-  
7           ovation, repair, and construction.

8           (f) ADMINISTRATIVE COSTS.—Each local educational  
9           agency that receives funds under this section may reserve  
10          not more than 1 percent of the funds or \$750,000, which-  
11          ever amount is less, for the purpose of—

12               (1) administering school renovation, repair, and  
13               construction projects; and

14               (2) reporting under subsection (e).

15          (g) REALLOCATION.—If a State educational agency  
16          does not apply for an allocation of funds under subsection  
17          (a)(2), or does not use its entire allocation, then the Sec-  
18          retary may reallocate the amount of the State educational  
19          agency's allocation (or the remainder thereof, as the case  
20          may be) to the remaining State educational agencies in  
21          accordance with subsection (a)(2).

22          (h) APPLICATION OF GEPA.—The grant program  
23          under this section is an applicable program (as that term  
24          is defined in section 400 of the General Education Provi-

1 sions Act (20 U.S.C. 1221)) subject to section 439 of such  
 2 Act (20 U.S.C. 1232b).

3 (i) DEFINITIONS.—In this section:

4 (1) IN GENERAL.—The terms “local educational  
 5 agency”, “Secretary”, and “State educational agen-  
 6 cy” have the meanings given the terms in section  
 7 9101 of the Elementary and Secondary Education  
 8 Act of 1965 (20 U.S.C. 7801).

9 (2) CHARTER SCHOOL.—The term “charter  
 10 school” has the meaning given the term in section  
 11 5210 of the Elementary and Secondary Education  
 12 Act of 1965 (20 U.S.C. 7221i).

13 (3) CHPS CRITERIA.—The term “CHPS Cri-  
 14 teria” means the green building rating program de-  
 15 veloped by the Collaborative for High Performance  
 16 Schools.

17 (4) ENERGY STAR.—The term “Energy Star”  
 18 means the Energy Star program of the Department  
 19 of Energy and the Environmental Protection Agen-  
 20 cy.

21 (5) GREEN GLOBES.—The term “Green  
 22 Globes” means the Green Building Initiative envi-  
 23 ronmental design and rating system.

24 (6) HIGH-NEED LOCAL EDUCATIONAL AGEN-  
 25 CY.—The term “high-need local educational agency”

1 has the meaning given the term in section  
2 2102(3)(A) of the Elementary and Secondary Edu-  
3 cation Act of 1965 (20 U.S.C. 6602(3)(A)).

4 (7) LEED GREEN BUILDING RATING SYSTEM.—  
5 The term “LEED Green Building Rating System”  
6 means the United States Green Building Council  
7 Leadership in Energy and Environmental Design  
8 green building rating standard.

9 (8) OUTLYING AREA.—The term “outlying  
10 area” has the meaning given the term in section  
11 1121(c) of the Elementary and Secondary Education  
12 Act of 1965 (20 U.S.C. 6331(c)).

13 (9) POOR CHILDREN.—The term “poor chil-  
14 dren” refers to children 5 to 17 years of age, inclu-  
15 sive, who are from families with incomes below the  
16 poverty line (as defined by the Office of Manage-  
17 ment and Budget and revised annually in accordance  
18 with section 673(2) of the Community Services  
19 Block Grant Act (42 U.S.C. 9902(2)) applicable to  
20 a family of the size involved for the most recent fis-  
21 cal year for which data satisfactory to the Secretary  
22 are available.

23 (10) RURAL LOCAL EDUCATIONAL AGENCY.—  
24 The term “rural local educational agency” means a  
25 local educational agency that the State determines is

1 located in a rural area using objective data and a  
2 commonly employed definition of the term “rural”.

3 (11) STATE.—The term “State” means each of  
4 the several States of the United States, the District  
5 of Columbia, and the Commonwealth of Puerto Rico.

6 (TRANSFER OF FUNDS)

7 SEC. 805. (a) Not more than 1 percent of the funds  
8 made available to the Department of Labor in this title  
9 may be transferred by the Secretary of Labor to “Employ-  
10 ment and Training Administration—Program Administra-  
11 tion”, “Employment Standards Administration—Salaries  
12 and Expenses”, “Occupational Safety and Health Admin-  
13 istration—Salaries and Expenses” and “Departmental  
14 Management—Salaries and Expenses” for expenses nec-  
15 essary to administer and coordinate funds made available  
16 to the Department of Labor in this title; oversee and  
17 evaluate the use of such funds; and enforce applicable laws  
18 and regulations governing worker rights and protections  
19 associated with the funds made available in this Act.

20 (b) Not later than 10 days prior to obligating any  
21 funds proposed to be transferred under subsection (a), the  
22 Secretary shall provide to the Committees on Appropria-  
23 tions of the House of Representatives and the Senate an  
24 operating plan describing the planned uses of each amount  
25 proposed to be transferred.

1 (c) Funds transferred under this section may be  
2 available for obligation through September 30, 2010.

3 SEC. 806. ELIGIBLE EMPLOYEES IN THE REC-  
4 REATIONAL MARINE INDUSTRY. Section 2(3)(F) of the  
5 Longshore and Harbor Workers' Compensation Act (33  
6 U.S.C. 902(3)(F)) is amended—

7 (1) by striking “, repair or dismantle”; and

8 (2) by striking the semicolon and inserting “, or  
9 individuals employed to repair any recreational ves-  
10 sel, or to dismantle any part of a recreational vessel  
11 in connection with the repair of such vessel;”.

12 TITLE IX—LEGISLATIVE BRANCH  
13 GOVERNMENT ACCOUNTABILITY OFFICE  
14 SALARIES AND EXPENSES

15 For an additional amount for “Salaries and Ex-  
16 penses” of the Government Accountability Office,  
17 \$20,000,000, to remain available until September 30,  
18 2010.

19 GENERAL PROVISIONS—THIS TITLE

20 SEC. 901. GOVERNMENT ACCOUNTABILITY OFFICE  
21 REVIEWS AND REPORTS. (a) REVIEWS AND REPORTS.—

22 (1) IN GENERAL.—The Comptroller General  
23 shall conduct bimonthly reviews and prepare reports  
24 on such reviews on the use by selected State and lo-  
25 calities of funds made available in this Act. Such re-



1 ports, along with any audits conducted by the Comp-  
2 troller General of such funds, shall be posted on the  
3 Internet and linked to the website established under  
4 this Act by the Recovery Accountability and Trans-  
5 parency Board.

6 (2) REDACTIONS.—Any portion of a report or  
7 audit under this subsection may be redacted when  
8 made publicly available, if that portion would dis-  
9 close information that is not subject to disclosure  
10 under section 552 of title 5, United States Code  
11 (commonly known as the Freedom of Information  
12 Act).

13 (b) EXAMINATION OF RECORDS.—The Comptroller  
14 General may examine any records related to obligations  
15 of funds made available in this Act.

16 SEC. 902. ACCESS OF GOVERNMENT ACCOUNT-  
17 ABILITY OFFICE. Each contract awarded using funds  
18 made available in this Act shall provide that the Comp-  
19 troller General and his representatives are authorized—

20 (1) to examine any records of the contractor or  
21 any of its subcontractors, or any State or local agen-  
22 cy administering such contract, that directly pertain  
23 to, and involve transactions relating to, the contract  
24 or subcontract; and

1           (2) to interview any current employee regarding  
2           such transactions.

3           TITLE X—MILITARY CONSTRUCTION AND  
4           VETERANS AFFAIRS, AND RELATED AGENCIES  
5                           DEPARTMENT OF DEFENSE  
6                           MILITARY CONSTRUCTION, ARMY

7           For an additional amount for “Military Construction,  
8           Army”, \$637,875,000, to remain available until Sep-  
9           tember 30, 2013, of which \$84,100,000 shall be for child  
10          development centers; \$481,000,000 shall be for warrior  
11          transition complexes; and \$42,400,000 shall be for health  
12          and dental clinics (including acquisition, construction, in-  
13          stallation, and equipment): *Provided*, That notwith-  
14          standing any other provision of law, such funds may be  
15          obligated and expended to carry out planning and design  
16          and military construction projects in the United States not  
17          otherwise authorized by law: *Provided further*, That of the  
18          funds provided under this heading, not to exceed  
19          \$30,375,000 shall be available for study, planning, design,  
20          and architect and engineer services: *Provided further*, That  
21          within 30 days of enactment of this Act the Secretary of  
22          the Army shall submit to the Committees on Appropria-  
23          tions of both Houses of Congress an expenditure plan for  
24          funds provided under this heading prior to obligation.

## 1     MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

2           For an additional amount for “Military Construction,  
3 Navy and Marine Corps”, \$990,092,000, to remain avail-  
4 able until September 30, 2013, of which \$172,820,000  
5 shall be for child development centers; \$174,304,000 shall  
6 be for barracks; \$125,000,000 shall be for health clinic  
7 replacement, and \$494,362,000 shall be for energy con-  
8 servation and alternative energy projects (including acqui-  
9 sition, construction, installation, and equipment): *Pro-*  
10 *vided*, That notwithstanding any other provision of law,  
11 such funds may be obligated and expended to carry out  
12 planning and design and military construction projects in  
13 the United States not otherwise authorized by law: *Pro-*  
14 *vided further*, That of the funds provided under this head-  
15 ing, not to exceed \$23,606,000 shall be available for study,  
16 planning, design, and architect and engineer services: *Pro-*  
17 *vided further*, That within 30 days of enactment of this  
18 Act the Secretary of the Navy shall submit to the Commit-  
19 tees on Appropriations of both Houses of Congress an ex-  
20 penditure plan for funds provided under this heading prior  
21 to obligation.

## 22           MILITARY CONSTRUCTION, AIR FORCE

23           For an additional amount for “Military Construction,  
24 Air Force”, \$871,332,000, to remain available until Sep-  
25 tember 30, 2013, of which \$80,100,000 shall be for child

1 development centers; \$612,246,000 shall be for dor-  
2 mitories; and \$138,100,000 shall be for health clinics (in-  
3 cluding acquisition, construction, installation, and equip-  
4 ment): *Provided*, That notwithstanding any other provi-  
5 sion of law, such funds may be obligated and expended  
6 to carry out planning and design and military construction  
7 projects in the United States not otherwise authorized by  
8 law: *Provided further*, That of the funds provided under  
9 this heading, not to exceed \$40,886,000 shall be available  
10 for study, planning, design, and architect and engineer  
11 services: *Provided further*, That within 30 days of enact-  
12 ment of this Act the Secretary of the Air Force shall sub-  
13 mit to the Committees on Appropriations of both Houses  
14 of Congress an expenditure plan for funds provided under  
15 this heading prior to obligation.

16           MILITARY CONSTRUCTION, DEFENSE-WIDE

17           For an additional amount for “Military Construction,  
18 Defense-Wide”, \$118,560,000 for the Energy Conserva-  
19 tion Investment Program, to remain available until Sep-  
20 tember 30, 2010: *Provided*, That notwithstanding any  
21 other provision of law, such funds may be obligated and  
22 expended to carry out planning and design and military  
23 construction projects in the United States not otherwise  
24 authorized by law: *Provided further*, That within 30 days  
25 of enactment of this Act the Secretary of Defense shall

1 submit to the Committees on Appropriations of both  
2 Houses of Congress an expenditure plan for funds pro-  
3 vided under this heading prior to obligation.

4     MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

5         For an additional amount for “Military Construction,  
6 Army National Guard”, \$150,000,000 for readiness cen-  
7 ters (including construction, acquisition, expansion, reha-  
8 bilitation, and conversion), to remain available until Sep-  
9 tember 30, 2013: *Provided*, That notwithstanding any  
10 other provision of law, such funds may be obligated and  
11 expended to carry out planning and design and military  
12 construction projects in the United States not otherwise  
13 authorized by law: *Provided further*, That within 30 days  
14 of enactment of this Act the Director of the Army Na-  
15 tional Guard shall submit to the Committees on Appro-  
16 priations of both Houses of Congress an expenditure plan  
17 for funds provided under this heading prior to obligation.

18     MILITARY CONSTRUCTION, AIR NATIONAL GUARD

19         For an additional amount for “Military Construction,  
20 Air National Guard”, \$110,000,000, to remain available  
21 until September 30, 2013: *Provided*, That notwithstanding  
22 any other provision of law, such funds may be obligated  
23 and expended to carry out planning and design and mili-  
24 tary construction projects in the United States not other-  
25 wise authorized by law: *Provided further*, That within 30

1 days of enactment of this Act the Director of the Air Na-  
2 tional Guard shall submit to the Committees on Appro-  
3 priations of both Houses of Congress an expenditure plan  
4 for funds provided under this heading prior to obligation.

5 FAMILY HOUSING CONSTRUCTION, ARMY

6 For an additional amount for “Family Housing Con-  
7 struction, Army”, \$34,570,000, to remain available until  
8 September 30, 2013: *Provided*, That notwithstanding any  
9 other provision of law, such funds may be obligated and  
10 expended to carry out planning and design and military  
11 construction projects in the United States not otherwise  
12 authorized by law: *Provided further*, That within 30 days  
13 of enactment of this Act the Secretary of the Army shall  
14 submit to the Committees on Appropriations of both  
15 Houses of Congress an expenditure plan for funds pro-  
16 vided under this heading prior to obligation.

17 FAMILY HOUSING OPERATION AND MAINTENANCE,  
18 ARMY

19 For an additional amount for “Family Housing Oper-  
20 ation and Maintenance, Army”, \$3,932,000: *Provided*,  
21 That notwithstanding any other provision of law, such  
22 funds may be obligated and expended for operation and  
23 maintenance and minor construction projects in the  
24 United States not otherwise authorized by law.

For an additional amount for “Family Housing Oper-  
ation and Maintenance, Air Force”, \$16,461,000: *Pro-  
vided*, That notwithstanding any other provision of law,  
such funds may be obligated and expended for operation  
and maintenance and minor construction projects in the  
United States not otherwise authorized by law.

For an additional amount for “Homeowners Assist-  
ance Fund”, established by section 1013 of the Dem-  
onstrations Cities and Metropolitan Development Act of

1 1966, as amended (42 U.S.C. 3374), \$410,973,000, to re-  
2 main available until expended.

3 ADMINISTRATIVE PROVISION

4 SEC. 1001. (a) TEMPORARY EXPANSION OF HOME-  
5 OWNERS ASSISTANCE PLAN TO RESPOND TO MORTGAGE  
6 FORECLOSURE AND CREDIT CRISIS.—Section 1013 of the  
7 Demonstration Cities and Metropolitan Development Act  
8 of 1966 (42 U.S.C. 3374) is amended—

9 (1) in subsection (a)—

10 (A) by redesignating paragraphs (1), (2),  
11 and (3) as clauses (i), (ii), and (iii), respec-  
12 tively, and indenting such subparagraphs, as so  
13 redesignated, 6 ems from the left margin;

14 (B) by striking “Notwithstanding any  
15 other provision of law” and inserting the fol-  
16 lowing:

17 “(1) ACQUISITION OF PROPERTY AT OR NEAR  
18 MILITARY INSTALLATIONS THAT HAVE BEEN OR-  
19 DERED TO BE CLOSED.—Notwithstanding any other  
20 provision of law”;

21 (C) by striking “if he determines” and in-  
22 serting “if—

23 “(A) the Secretary determines—”;



1 (D) in clause (iii), as redesignated by sub-  
2 paragraph (A), by striking the period at the  
3 end and inserting “; or”; and

4 (E) by adding at the end the following:

5 “(B) the Secretary determines—

6 “(i) that the conditions in clauses (i)  
7 and (ii) of subparagraph (A) have been  
8 met;

9 “(ii) that the closing or realignment  
10 of the base or installation resulted from a  
11 realignment or closure carried out under  
12 the 2005 round of defense base closure  
13 and realignment under the Defense Base  
14 Closure and Realignment Act of 1990  
15 (part XXIX of Public Law 101–510; 10  
16 U.S.C. 2687 note);

17 “(iii) that the property was purchased  
18 by the owner before July 1, 2006;

19 “(iv) that the property was sold by  
20 the owner between July 1, 2006, and Sep-  
21 tember 30, 2012, or an earlier end date  
22 designated by the Secretary;

23 “(v) that the property is the primary  
24 residence of the owner; and

1                   “(vi) that the owner has not pre-  
2                   viously received benefit payments author-  
3                   ized under this subsection.

4                   “(2) HOMEOWNER ASSISTANCE FOR WOUNDED  
5                   MEMBERS OF THE ARMED FORCES, DEPARTMENT OF  
6                   DEFENSE AND UNITED STATES COAST GUARD CIVIL-  
7                   IAN EMPLOYEES, AND THEIR SPOUSES.—Notwith-  
8                   standing any other provision of law, the Secretary of  
9                   Defense is authorized to acquire title to, hold, man-  
10                  age, and dispose of, or, in lieu thereof, to reimburse  
11                  for certain losses upon private sale of, or foreclosure  
12                  against, any property improved with a one- or two-  
13                  family dwelling which was at the time of the relevant  
14                  wound, injury, or illness, the primary residence of—

15                  “(A) any member of the Armed Forces in  
16                  medical transition who—

17                         “(i) incurred a wound, injury, or ill-  
18                         ness in the line of duty during a deploy-  
19                         ment in support of the Armed Forces;

20                         “(ii) is disabled to a degree of 30 per-  
21                         cent or more as a result of such wound, in-  
22                         jury, or illness, as determined by the Sec-  
23                         retary of Defense or the Secretary of Vet-  
24                         erans Affairs; and

1           “(iii) is reassigned in furtherance of  
2           medical treatment or rehabilitation, or due  
3           to medical retirement in connection with  
4           such disability;

5           “(B) any civilian employee of the Depart-  
6           ment of Defense or the United States Coast  
7           Guard who—

8           “(i) was wounded, injured, or became  
9           ill in the line of duty during a forward de-  
10          ployment in support of the Armed Forces;  
11          and

12          “(ii) is reassigned in furtherance of  
13          medical treatment, rehabilitation, or due to  
14          medical retirement resulting from the sus-  
15          tained disability; or

16          “(C) the spouse of a member of the Armed  
17          Forces or a civilian employee of the Department  
18          of Defense or the United States Coast Guard  
19          if—

20          “(i) the member or employee was  
21          killed in the line of duty during a deploy-  
22          ment in support of the Armed Forces or  
23          died from a wound, injury, or illness in-  
24          curred in the line of duty during such a  
25          deployment; and

1                   “(ii) the spouse relocates from such  
2                   residence within 2 years after the death of  
3                   such member or employee.

4                   “(3) TEMPORARY HOMEOWNER ASSISTANCE  
5                   FOR MEMBERS OF THE ARMED FORCES PERMA-  
6                   NENTLY REASSIGNED DURING SPECIFIED MORTGAGE  
7                   CRISIS.—Notwithstanding any other provision of  
8                   law, the Secretary of Defense is authorized to ac-  
9                   quire title to, hold, manage, and dispose of, or, in  
10                  lieu thereof, to reimburse for certain losses upon pri-  
11                  vate sale of, or foreclosure against, any property im-  
12                  proved with a one- or two-family dwelling situated at  
13                  or near a military base or installation, if the Sec-  
14                  retary determines—

15                  “(A) that the owner is a member of the  
16                  Armed Forces serving on permanent assign-  
17                  ment;

18                  “(B) that the owner is permanently reas-  
19                  signed by order of the United States Govern-  
20                  ment to a duty station or home port outside a  
21                  50-mile radius of the base or installation;

22                  “(C) that the reassignment was ordered  
23                  between February 1, 2006, and September 30,  
24                  2012, or an earlier end date designated by the  
25                  Secretary;

1 “(D) that the property was purchased by  
2 the owner before July 1, 2006;

3 “(E) that the property was sold by the  
4 owner between July 1, 2006, and September  
5 30, 2012, or an earlier end date designated by  
6 the Secretary;

7 “(F) that the property is the primary resi-  
8 dence of the owner; and

9 “(G) that the owner has not previously re-  
10 ceived benefit payments authorized under this  
11 subsection.”;

12 (2) in subsection (b), by striking “this section”  
13 each place it appears and inserting “subsection  
14 (a)(1)”;

15 (3) in subsection (c)—

16 (A) by striking “Such persons” and insert-  
17 ing the following:

18 “(1) HOMEOWNER ASSISTANCE RELATED TO  
19 CLOSED MILITARY INSTALLATIONS.—

20 “(A) IN GENERAL.—Such persons”;

21 (B) by striking “set forth above shall elect  
22 either (1) to receive” and inserting the fol-  
23 lowing: “set forth in subsection (a)(1) shall  
24 elect either—

25 “(i) to receive”;

(C) by striking “difference between (A) 95 per centum” and all that follows through “(B) the fair market value” and inserting the following: “difference between—

“(I) 95 per centum of the fair market value of their property (as such value is determined by the Secretary of Defense) prior to public announcement of intention to close all or part of the military base or installation; and

“(II) the fair market value”;

(D) by striking “time of the sale, or (2) to receive” and inserting the following: “time of the sale; or

“(ii) to receive”;

(E) by striking “outstanding mortgages. The Secretary may also pay a person who elects to receive a cash payment under clause (1) of the preceding sentence an amount” and inserting “outstanding mortgages.

“(B) REIMBURSEMENT OF EXPENSES.—

The Secretary may also pay a person who elects to receive a cash payment under subparagraph (A) an amount”; and

(F) by striking “best interest of the Federal Government. Cash payment” and inserting the following: “best interest of the United States.

“(2) HOMEOWNER ASSISTANCE FOR WOUNDED INDIVIDUALS AND THEIR SPOUSES.—

“(A) IN GENERAL.—Persons eligible under the criteria set forth in subsection (a)(2) may elect either—

“(i) to receive a cash payment as compensation for losses which may be or have been sustained in a private sale, in an amount not to exceed the difference between—

“(I) 95 per centum of prior fair market value of their property (as such value is determined by the Secretary of Defense); and

“(II) the fair market value of such property (as such value is so determined) at the time of the wound, injury, or illness qualifying the individual for benefits under subsection (a)(2); or

1           “(ii) to receive, as purchase price for  
 2           their property an amount not to exceed 90  
 3           per centum of prior fair market value as  
 4           such value is determined by the Secretary  
 5           of Defense, or the amount of the out-  
 6           standing mortgages.

7           “(B) DETERMINATION OF BENEFITS.—  
 8           The Secretary may also pay a person who elects  
 9           to receive a cash payment under subparagraph  
 10          (A) an amount that the Secretary determines  
 11          appropriate to reimburse the person for the  
 12          costs incurred by the person in the sale of the  
 13          property if the Secretary determines that such  
 14          payment will benefit the person and is in the  
 15          best interest of the United States.

16          “(3) HOMEOWNER ASSISTANCE FOR PERMA-  
 17          NENTLY REASSIGNED INDIVIDUALS.—

18               “(A) IN GENERAL.—Persons eligible under  
 19               the criteria set forth in subsection (a)(3) may  
 20               elect either—

21                   “(i) to receive a cash payment as com-  
 22                   pensation for losses which may be or have  
 23                   been sustained in a private sale, in an  
 24                   amount not to exceed the difference be-  
 25                   tween—



1                   “(I) 95 per centum of prior fair  
2                   market value of their property (as  
3                   such value is determined by the Sec-  
4                   retary of Defense); and

5                   “(II) the fair market value of  
6                   such property (as such value is so de-  
7                   termined) at the time the person re-  
8                   ceived change of permanent station  
9                   orders; or

10                  “(ii) to receive, as purchase price for  
11                  their property an amount not to exceed 90  
12                  per centum of prior fair market value as  
13                  such value is determined by the Secretary  
14                  of Defense, or the amount of the out-  
15                  standing mortgages.

16                  “(B) DETERMINATION OF BENEFITS.—  
17                  The Secretary may also pay a person who elects  
18                  to receive a cash payment under subparagraph  
19                  (A) an amount that the Secretary determines  
20                  appropriate to reimburse the person for the  
21                  costs incurred by the person in the sale of the  
22                  property if the Secretary determines that such  
23                  payment will benefit the person and is in the  
24                  best interest of the United States.

1           “(4) COMPENSATION AND LIMITATIONS RE-  
2           LATED TO FORECLOSURES AND ENCUMBRANCES.—  
3           Cash payment”;

4           (4) by striking subsection (g);

5           (5) in subsection (l), by striking “(a)(2)” and  
6           inserting “(a)(1)(A)(ii)”;

7           (6) in subsection (m), by striking “this section”  
8           and inserting “subsection (a)(1)”;

9           (7) in subsection (n)—

10           (A) in paragraph (1), by striking “this sec-  
11           tion” and inserting “subsection (a)(1)”;

12           (B) in paragraph (2), by striking “this sec-  
13           tion” and inserting “subsection (a)(1)”;

14           (8) in subsection (o)—

15           (A) in paragraph (1), by striking “this sec-  
16           tion” and inserting “subsection (a)(1)”;

17           (B) in paragraph (2), by striking “this sec-  
18           tion” and inserting “subsection (a)(1)”;

19           (C) by striking paragraph (4); and

20           (9) by adding at the end the following new sub-  
21           section:

22           “(p) DEFINITIONS.—In this section:

23           “(1) the term ‘Armed Forces’ has the meaning  
24           given the term ‘armed forces’ in section 101(a) of  
25           title 10, United States Code;

1           “(2) the term ‘civilian employee’ has the mean-  
2           ing given the term ‘employee’ in section 2105(a) of  
3           title 5, United States Code;

4           “(3) the term ‘medical transition’, in the case  
5           of a member of the Armed Forces, means a member  
6           who—

7                   “(A) is in Medical Holdover status;

8                   “(B) is in Active Duty Medical Extension  
9                   status;

10                  “(C) is in Medical Hold status;

11                  “(D) is in a status pending an evaluation  
12                  by a medical evaluation board;

13                  “(E) has a complex medical need requiring  
14                  six or more months of medical treatment; or

15                  “(F) is assigned or attached to an Army  
16                  Warrior Transition Unit, an Air Force Patient  
17                  Squadron, a Navy Patient Multidisciplinary  
18                  Care Team, or a Marine Patient Affairs Team/  
19                  Wounded Warrior Regiment; and

20           “(4) the term ‘nonappropriated fund instrumen-  
21           tality employee’ means a civilian employee who—

22                   “(A) is a citizen of the United States; and

23                   “(B) is paid from nonappropriated funds  
24                   of Army and Air Force Exchange Service, Navy  
25                   Resale and Services Support Office, Marine

1 Corps exchanges, or any other instrumentality  
 2 of the United States under the jurisdiction of  
 3 the Armed Forces which is conducted for the  
 4 comfort, pleasure, contentment, or physical or  
 5 mental improvement of members of the Armed  
 6 Forces.”.

7 (b) CLERICAL AMENDMENT.—Such section is further  
 8 amended in the section heading by inserting “and certain  
 9 property owned by members of the armed forces, depart-  
 10 ment of defense and united states coast guard civilian em-  
 11 ployees, and surviving spouses” after “ordered to be  
 12 closed”.

13 (c) AUTHORITY TO USE APPROPRIATED FUNDS.—  
 14 Notwithstanding subsection (i) of such section, amounts  
 15 appropriated or otherwise made available by this title  
 16 under the heading “Homeowners Assistance Fund” may  
 17 be used for the Homeowners Assistance Fund established  
 18 under such section.

## 19 DEPARTMENT OF VETERANS AFFAIRS

### 20 VETERANS HEALTH ADMINISTRATION

#### 21 MEDICAL SUPPORT AND COMPLIANCE

22 For an additional amount for “Medical Support and  
 23 Compliance”, \$5,000,000, to remain available until Sep-  
 24 tember 30, 2010, to support contract administration and

1 energy initiative execution at the Veterans Health Admin-  
2 istration.

3 MEDICAL FACILITIES

4 For an additional amount for “Medical Facilities”,  
5 \$1,370,459,000, to remain available until September 30,  
6 2010, of which \$1,047,313,000 shall be for facility condi-  
7 tion assessment deficiencies and non-recurring mainte-  
8 nance at existing medical facilities; and \$323,146,000  
9 shall be for energy efficiency initiatives.

10 NATIONAL CEMETERY ADMINISTRATION

11 For an additional amount for “National Cemetery  
12 Administration”, \$64,961,000, to remain available until  
13 September 30, 2010, of which \$59,476,000 shall be for  
14 capital infrastructure and memorial and monument re-  
15 pairs; and \$5,485,000 shall be for energy efficiency initia-  
16 tives.

17 DEPARTMENTAL ADMINISTRATION

18 GENERAL OPERATING EXPENSES

19 For an additional amount for “General Operating  
20 Expenses”, \$1,125,000, to remain available until Sep-  
21 tember 30, 2010, for additional Full Time Equivalent sal-  
22 ary and expenses for major construction project adminis-  
23 tration and execution and energy initiative execution.

24 INFORMATION TECHNOLOGY SYSTEMS

25 For an additional amount for “Information Tech-  
26 nology Systems”, \$195,000,000, to remain available until

1 September 30, 2010, of which \$145,000,000 shall be for  
2 the Veterans Benefits Administration's development of  
3 paperless claims processing; and \$50,000,000 shall be for  
4 the development of systems required to implement chapter  
5 33 of title 38, United States Code.

6 OFFICE OF INSPECTOR GENERAL

7 For an additional amount for "Office of Inspector  
8 General", \$4,400,000, to remain available until September  
9 30, 2010, for oversight and audit of programs, grants and  
10 projects funded under this title.

11 CONSTRUCTION, MAJOR PROJECTS

12 For an additional amount for "Construction, Major  
13 Projects", \$1,105,333,000, to remain available until Sep-  
14 tember 30, 2013, which shall be for acceleration and con-  
15 struction of ongoing and planned construction, including  
16 physical security construction, of major medical facilities  
17 and National Cemeteries consistent with the Department  
18 of Veterans Affairs' Five Year Capital Plan: *Provided*,  
19 That notwithstanding any other provision of law, such  
20 funds may be obligated and expended to carry out plan-  
21 ning and design and major medical facility construction  
22 not otherwise authorized by law: *Provided further*, That  
23 within 30 days of enactment of this Act the Secretary of  
24 Veterans Affairs shall submit to the Committees on Ap-  
25 propriations of both Houses of Congress an expenditure

1 plan for funds provided under this heading prior to obliga-  
 2 tion.

### 3 CONSTRUCTION, MINOR PROJECTS

4 For an additional amount for “Construction, Minor  
 5 Projects”, \$939,836,000, to remain available until Sep-  
 6 tember 30, 2010, of which \$860,742,000 shall be for Vet-  
 7 erans Health Administration minor construction;  
 8 \$20,300,000 shall be for Veterans Benefits Administra-  
 9 tion minor construction, including \$300,000 for energy ef-  
 10 ficiency initiatives; and \$29,012,000 shall be for National  
 11 Cemetery Administration minor construction.

### 12 GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE 13 FACILITIES

14 For an additional amount for “Grants for Construc-  
 15 tion of State Extended Care Facilities”, \$257,986,000, to  
 16 remain available until September 30, 2010, for grants to  
 17 assist States to acquire or construct State nursing home  
 18 and domiciliary facilities and to remodel, modify, or alter  
 19 existing hospital, nursing home, and domiciliary facilities  
 20 in State homes, for furnishing care to veterans as author-  
 21 ized by sections 8131 through 8137 of title 38, United  
 22 States Code.

### 23 ADMINISTRATIVE PROVISION

24 SEC. 1002. PAYMENTS TO ELIGIBLE PERSONS WHO  
 25 SERVED IN THE UNITED STATES ARMED FORCES IN THE

1 FAR EAST DURING WORLD WAR II. (a) FINDINGS.—Con-  
2 gress makes the following findings:

3 (1) The Philippine islands became a United  
4 States possession in 1898 when they were ceded  
5 from Spain following the Spanish-American War.

6 (2) During World War II, Filipinos served in a  
7 variety of units, some of which came under the di-  
8 rect control of the United States Armed Forces.

9 (3) The regular Philippine Scouts, the new  
10 Philippine Scouts, the Guerilla Services, and more  
11 than 100,000 members of the Philippine Common-  
12 wealth Army were called into the service of the  
13 United States Armed Forces of the Far East on  
14 July 26, 1941, by an executive order of President  
15 Franklin D. Roosevelt.

16 (4) Even after hostilities had ceased, wartime  
17 service of the new Philippine Scouts continued as a  
18 matter of law until the end of 1946, and the force  
19 gradually disbanded and was disestablished in 1950.

20 (5) Filipino veterans who were granted benefits  
21 prior to the enactment of the so-called Rescissions  
22 Acts of 1946 (Public Laws 79–301 and 79–391)  
23 currently receive full benefits under laws adminis-  
24 tered by the Secretary of Veterans Affairs, but  
25 under section 107 of title 38, United States Code,



1 the service of certain other Filipino veterans is  
2 deemed not to be active service for purposes of such  
3 laws.

4 (6) These other Filipino veterans only receive  
5 certain benefits under title 38, United States Code,  
6 and, depending on where they legally reside, are paid  
7 such benefit amounts at reduced rates.

8 (7) The benefits such veterans receive include  
9 service-connected compensation benefits paid under  
10 chapter 11 of title 38, United States Code, depend-  
11 ency indemnity compensation survivor benefits paid  
12 under chapter 13 of title 38, United States Code,  
13 and burial benefits under chapters 23 and 24 of title  
14 38, United States Code, and such benefits are paid  
15 to beneficiaries at the rate of \$0.50 per dollar au-  
16 thorized, unless they lawfully reside in the United  
17 States.

18 (8) Dependents' educational assistance under  
19 chapter 35 of title 38, United States Code, is also  
20 payable for the dependents of such veterans at the  
21 rate of \$0.50 per dollar authorized, regardless of the  
22 veterans' residency.

23 (b) COMPENSATION FUND.—

24 (1) IN GENERAL.—There is in the general fund  
25 of the Treasury a fund to be known as the “Filipino

1 Veterans Equity Compensation Fund” (in this sec-  
2 tion referred to as the “compensation fund”).

3 (2) AVAILABILITY OF FUNDS.—Subject to the  
4 availability of appropriations for such purpose,  
5 amounts in the fund shall be available to the Sec-  
6 retary of Veterans Affairs without fiscal year limita-  
7 tion to make payments to eligible persons in accord-  
8 ance with this section.

9 (c) PAYMENTS.—

10 (1) IN GENERAL.—The Secretary may make a  
11 payment from the compensation fund to an eligible  
12 person who, during the one-year period beginning on  
13 the date of the enactment of this Act, submits to the  
14 Secretary a claim for benefits under this section.  
15 The application for the claim shall contain such in-  
16 formation and evidence as the Secretary may re-  
17 quire.

18 (2) PAYMENT TO SURVIVING SPOUSE.—If an el-  
19 igible person who has filed a claim for benefits under  
20 this section dies before payment is made under this  
21 section, the payment under this section shall be  
22 made instead to the surviving spouse, if any, of the  
23 eligible person.

24 (d) ELIGIBLE PERSONS.—An eligible person is any  
25 person who—

1 (1) served—

2 (A) before July 1, 1946, in the organized  
3 military forces of the Government of the Com-  
4 monwealth of the Philippines, while such forces  
5 were in the service of the Armed Forces of the  
6 United States pursuant to the military order of  
7 the President dated July 26, 1941, including  
8 among such military forces organized guerrilla  
9 forces under commanders appointed, des-  
10 ignated, or subsequently recognized by the  
11 Commander in Chief, Southwest Pacific Area,  
12 or other competent authority in the Army of the  
13 United States; or

14 (B) in the Philippine Scouts under section  
15 14 of the Armed Forces Voluntary Recruitment  
16 Act of 1945 (59 Stat. 538); and

17 (2) was discharged or released from service de-  
18 scribed in paragraph (1) under conditions other than  
19 dishonorable.

20 (e) PAYMENT AMOUNTS.—Each payment under this  
21 section shall be—

22 (1) in the case of an eligible person who is not  
23 a citizen of the United States, in the amount of  
24 \$9,000; and

1           (2) in the case of an eligible person who is a  
2       citizen of the United States, in the amount of  
3       \$15,000.

4       (f) LIMITATION.—The Secretary may not make more  
5       than one payment under this section for each eligible per-  
6       son described in subsection (d).

7       (g) CLARIFICATION OF TREATMENT OF PAYMENTS  
8       UNDER CERTAIN LAWS.—Amounts paid to a person  
9       under this section—

10           (1) shall be treated for purposes of the internal  
11       revenue laws of the United States as damages for  
12       human suffering; and

13           (2) shall not be included in income or resources  
14       for purposes of determining—

15           (A) eligibility of an individual to receive  
16       benefits described in section 3803(c)(2)(C) of  
17       title 31, United States Code, or the amount of  
18       such benefits;

19           (B) eligibility of an individual to receive  
20       benefits under title VIII of the Social Security  
21       Act, or the amount of such benefits; or

22           (C) eligibility of an individual for, or the  
23       amount of benefits under, any other Federal or  
24       federally assisted program.

25       (h) RELEASE.—

1           (1) IN GENERAL.—Except as provided in para-  
2       graph (2), the acceptance by an eligible person or  
3       surviving spouse, as applicable, of a payment under  
4       this section shall be final, and shall constitute a  
5       complete release of any claim against the United  
6       States by reason of any service described in sub-  
7       section (d).

8           (2) PAYMENT OF PRIOR ELIGIBILITY STATUS.—  
9       Nothing in this section shall prohibit a person from  
10      receiving any benefit (including health care, survivor,  
11      or burial benefits) which the person would have been  
12      eligible to receive based on laws in effect as of the  
13      day before the date of the enactment of this Act.

14      (i) RECOGNITION OF SERVICE.—The service of a per-  
15      son as described in subsection (d) is hereby recognized as  
16      active military service in the Armed Forces for purposes  
17      of, and to the extent provided in, this section.

18      (j) ADMINISTRATION.—

19           (1) The Secretary shall promptly issue applica-  
20      tion forms and instructions to ensure the prompt  
21      and efficient administration of the provisions of this  
22      section.

23           (2) The Secretary shall administer the provi-  
24      sions of this section in a manner consistent with ap-  
25      plicable provisions of title 38, United States Code,

1 and other provisions of law, and shall apply the defi-  
 2 nitions in section 101 of such title in the administra-  
 3 tion of such provisions, except to the extent other-  
 4 wise provided in this section.

5 (k) REPORTS.—The Secretary shall include, in docu-  
 6 ments submitted to Congress by the Secretary in support  
 7 of the President’s budget for each fiscal year, detailed in-  
 8 formation on the operation of the compensation fund, in-  
 9 cluding the number of applicants, the number of eligible  
 10 persons receiving benefits, the amounts paid out of the  
 11 compensation fund, and the administration of the com-  
 12 pensation fund for the most recent fiscal year for which  
 13 such data is available.

14 (l) AUTHORIZATION OF APPROPRIATION.—There is  
 15 authorized to be appropriated to the compensation fund  
 16 \$198,000,000, to remain available until expended, to make  
 17 payments under this section.

## 18 RELATED AGENCY

### 19 DEPARTMENT OF DEFENSE—CIVIL

#### 20 CEMETERIAL EXPENSES, ARMY

#### 21 SALARY AND EXPENSES

22 For an additional amount for “Cemeterial Expenses,  
 23 Army”, \$60,300,000, to remain available until September  
 24 30, 2010, for land development, columbarium construc-

tion, and relocation of utilities at Arlington National Cemetery.

TITLE XI—STATE, FOREIGN OPERATIONS, AND  
RELATED PROGRAMS

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs” for urgent domestic facilities requirements, \$180,500,000, to remain available until September 30, 2010, of which up to \$45,000,000 shall be available for passport and visa facilities and systems, and up to \$75,000,000 shall be available for a consolidated security training facility in the United States: *Provided*, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading: *Provided further*, That with respect to the funds made available for passport facilities and systems, such plan shall be developed in consultation with the Department of Homeland Security and the General Services Administration and shall coordinate and co-locate, to the extent feasible, the construction of passport agencies with other Federal facilities.

## CAPITAL INVESTMENT FUND

For an additional amount for “Capital Investment Fund”, \$524,000,000, to remain available until September 30, 2010, of which up to \$120,000,000 shall be available for the design and construction of a backup information management facility in the United States to support continuity of critical mission operations and programs, and up to \$98,527,000 shall be available to carry out the Department of State’s responsibilities under the Comprehensive National Cybersecurity Initiative: *Provided*, That the Secretary of State and the Administrator of the United States Agency for International Development shall coordinate information technology systems, where appropriate, to increase efficiencies and eliminate redundancies, to include co-location of backup information management facilities: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations within 90 days of enactment of this Act a detailed spending plan for funds appropriated under this heading.

## OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General” for oversight requirements, \$2,000,000, to remain available until September 30, 2010.



## 1 INTERNATIONAL COMMISSIONS

2 INTERNATIONAL BOUNDARY AND WATER COMMISSION,

3 UNITED STATES AND MEXICO

4 CONSTRUCTION

5 (INCLUDING TRANSFER OF FUNDS)

6 For an additional amount for “Construction” for the  
7 water quantity program to meet immediate repair and re-  
8 habilitation requirements, \$224,000,000, to remain avail-  
9 able until September 30, 2010: *Provided*, That up to  
10 \$2,000,000 may be transferred to, and merged with, funds  
11 available under the heading “International Boundary and  
12 Water Commission, United States and Mexico—Salaries  
13 and Expenses”: *Provided*, That the Secretary of State  
14 shall submit to the Committees on Appropriations within  
15 90 days of enactment of this Act a detailed spending plan  
16 for funds appropriated under this heading.

17 UNITED STATES AGENCY FOR INTERNATIONAL  
18 DEVELOPMENT

19 FUNDS APPROPRIATED TO THE PRESIDENT

20 CAPITAL INVESTMENT FUND

21 For an additional amount for “Capital Investment  
22 Fund”, \$100,000,000, to remain available until Sep-  
23 tember 30, 2010, of which \$34,000,000 shall be available  
24 for information technology modernization programs and of  
25 which up to \$35,000,000 shall be available for implemen-  
26 tation of the Global Acquisition System: *Provided*, That

1 the Administrator of the United States Agency for Inter-  
 2 national Development shall submit to the Committees on  
 3 Appropriations within 90 days of enactment of this Act  
 4 a detailed spending plan for funds appropriated under this  
 5 heading.

6 OPERATING EXPENSES OF THE UNITED STATES AGENCY  
 7 FOR INTERNATIONAL DEVELOPMENT OFFICE OF IN-  
 8 SPECTOR GENERAL

9 For an additional amount for “Operating Expenses  
 10 of the United States Agency for International Develop-  
 11 ment Office of Inspector General” for oversight require-  
 12 ments, \$500,000, to remain available until September 30,  
 13 2010.

14 TITLE XII—TRANSPORTATION AND HOUSING  
 15 AND URBAN DEVELOPMENT, AND RELATED  
 16 AGENCIES

17 DEPARTMENT OF TRANSPORTATION

18 OFFICE OF THE SECRETARY

19 SUPPLEMENTAL DISCRETIONARY GRANTS FOR A  
 20 NATIONAL SURFACE TRANSPORTATION SYSTEM

21 For an additional amount for capital investments in  
 22 surface transportation infrastructure, \$5,500,000,000, to  
 23 remain available until September 30, 2011: *Provided,*  
 24 That the Secretary of Transportation shall distribute  
 25 funds provided under this heading as discretionary grants  
 26 to be awarded to State and local governments on a com-

1 petitive basis for projects that will have a significant im-  
2 pact on the Nation, a metropolitan area, or a region: *Pro-*  
3 *vided further*, That projects eligible for funding provided  
4 under this heading shall include, but not be limited to,  
5 highway or bridge projects eligible under title 23, United  
6 States Code, including interstate rehabilitation, improve-  
7 ments to the rural collector road system, the reconstruc-  
8 tion of overpasses and interchanges, bridge replacements,  
9 seismic retrofit projects for bridges, and road realign-  
10 ments; public transportation projects eligible under chap-  
11 ter 53 of title 49, United States Code, including invest-  
12 ments in projects participating in the New Starts or Small  
13 Starts programs that will expedite the completion of those  
14 projects and their entry into revenue service; passenger  
15 and freight rail transportation projects; and port infra-  
16 structure investments, including projects that connect  
17 ports to other modes of transportation and improve the  
18 efficiency of freight movement: *Provided further*, That of  
19 the amount made available under this paragraph, the Sec-  
20 retary may use an amount not to exceed \$200,000,000  
21 for the purpose of paying the subsidy costs of projects eli-  
22 gible for federal credit assistance under chapter 6 of title  
23 23, United States Code, if the Secretary finds that such  
24 use of the funds would advance the purposes of this para-  
25 graph: *Provided further*, That in distributing funds pro-

1 vided under this heading, the Secretary shall take such  
2 measures so as to ensure an equitable geographic distribu-  
3 tion of funds and an appropriate balance in addressing  
4 the needs of urban and rural communities: *Provided fur-*  
5 *ther*, That a grant funded under this heading shall be not  
6 less than \$20,000,000 and not greater than  
7 \$500,000,000: *Provided further*, That the Federal share  
8 of the costs for which an expenditure is made under this  
9 heading may be up to 100 percent: *Provided further*, That  
10 the Secretary shall give priority to projects that require  
11 an additional share of Federal funds in order to complete  
12 an overall financing package, and to projects that are ex-  
13 pected to be completed within 3 years of enactment of this  
14 Act: *Provided further*, That the Secretary shall publish cri-  
15 teria on which to base the competition for any grants  
16 awarded under this heading not later than 75 days after  
17 enactment of this Act: *Provided further*, That the Sec-  
18 retary shall require applications for funding provided  
19 under this heading to be submitted not later than 180  
20 days after enactment of this Act, and announce all  
21 projects selected to be funded from such funds not later  
22 than 1 year after enactment of this Act: *Provided further*,  
23 That the Secretary shall require all additional applications  
24 to be submitted not later than 1 year after enactment of  
25 this Act, and announce not later than 180 days following

1 such 1-year period all additional projects selected to be  
 2 funded with funds withdrawn from States and grantees  
 3 and transferred from “Supplemental Grants for Highway  
 4 Investments” and “Supplemental Grants for Public Tran-  
 5 sit Investment”: *Provided further*, That projects conducted  
 6 using funds provided under this heading must comply with  
 7 the requirements of subchapter IV of chapter 31 of title  
 8 40, United States Code: *Provided further*, That the Sec-  
 9 retary may retain up to \$5,000,000 of the funds provided  
 10 under this heading, and may transfer portions of those  
 11 funds to the Administrators of the Federal Highway Ad-  
 12 ministration, the Federal Transit Administration, the  
 13 Federal Railroad Administration and the Maritime Ad-  
 14 ministration, to fund the award and oversight of grants  
 15 made under this heading.

16                   FEDERAL AVIATION ADMINISTRATION  
 17           SUPPLEMENTAL FUNDING FOR FACILITIES AND  
 18                                   EQUIPMENT

19       For an additional amount for necessary investments  
 20 in Federal Aviation Administration infrastructure,  
 21 \$200,000,000: *Provided*, That funding provided under this  
 22 heading shall be used to make improvements to power sys-  
 23 tems, air route traffic control centers, air traffic control  
 24 towers, terminal radar approach control facilities, and  
 25 navigation and landing equipment: *Provided further*, That

1 priority be given to such projects or activities that will be  
 2 completed within 2 years of enactment of this Act: *Pro-*  
 3 *vided further*, That amounts made available under this  
 4 heading may be provided through grants in addition to  
 5 the other instruments authorized under section 106(l)(6)  
 6 of title 49, United States Code: *Provided further*, That the  
 7 Federal share of the costs for which an expenditure is  
 8 made under this heading shall be 100 percent: *Provided*  
 9 *further*, That amounts provided under this heading may  
 10 be used for expenses the agency incurs in administering  
 11 this program: *Provided further*, That not more than 60  
 12 days after enactment of this Act, the Administrator shall  
 13 establish a process for applying, reviewing and awarding  
 14 grants and cooperative and other transaction agreements,  
 15 including the form and content of an application, and re-  
 16 quirements for the maintenance of records that are nec-  
 17 essary to facilitate an effective audit of the use of the  
 18 funding provided: *Provided further*, That section 50101 of  
 19 title 49, United States Code, shall apply to funds provided  
 20 under this heading.

21 SUPPLEMENTAL DISCRETIONARY GRANTS FOR AIRPORT

22 INVESTMENT

23 For an additional amount for capital expenditures  
 24 authorized under sections 47102(3) and 47504(c) of title  
 25 49, United States Code, and for the procurement, installa-  
 26 tion and commissioning of runway incursion prevention

1 devices and systems at airports of such title,  
2 \$1,100,000,000: *Provided*, That the Secretary of Trans-  
3 portation shall distribute funds provided under this head-  
4 ing as discretionary grants to airports, with priority given  
5 to those projects that demonstrate to his or her satisfac-  
6 tion their ability to be completed within 2 years of enact-  
7 ment of this Act, and serve to supplement and not sup-  
8 plant planned expenditures from airport-generated reve-  
9 nues or from other State and local sources on such activi-  
10 ties: *Provided further*, That the Federal share payable of  
11 the costs for which a grant is made under this heading  
12 shall be 100 percent: *Provided further*, That the amount  
13 made available under this heading shall not be subject to  
14 any limitation on obligations for the Grants-in-Aid for Air-  
15 ports program set forth in any Act: *Provided further*, That  
16 section 50101 of title 49, United States Code, shall apply  
17 to funds provided under this heading: *Provided further*,  
18 That projects conducted using funds provided under this  
19 heading must comply with the requirements of subchapter  
20 IV of chapter 31 of title 40, United States Code: *Provided*  
21 *further*, That the Administrator of the Federal Aviation  
22 Administration may retain and transfer to “Federal Avia-  
23 tion Administration, Operations” up to one-quarter of 1  
24 percent of the funds provided under this heading to fund

1 the award and oversight by the Administrator of grants  
 2 made under this heading.

3 FEDERAL HIGHWAY ADMINISTRATION

4 SUPPLEMENTAL GRANTS FOR HIGHWAY INVESTMENT

5 For an additional amount for restoration, repair, con-  
 6 struction and other activities eligible under paragraph (b)  
 7 of section 133 of title 23, United States Code,  
 8 \$27,060,000,000: *Provided*, That funds provided under  
 9 this heading shall be apportioned to States using the for-  
 10 mula set forth in section 104(b)(3) of such title: *Provided*  
 11 *further*, That 180 days following the date of such appor-  
 12 tionment, the Secretary of Transportation shall withdraw  
 13 from each State an amount equal to 50 percent of the  
 14 funds awarded to that grantee less the amount of funding  
 15 obligated, and the Secretary shall redistribute such  
 16 amounts to other States that have had no funds with-  
 17 drawn under this proviso in the manner described in sec-  
 18 tion 120(c) of division K of Public Law 110–161: *Provided*  
 19 *further*, That 1 year following the date of such appor-  
 20 tionment, the Secretary shall withdraw from each recipient of  
 21 funds apportioned under this heading any unobligated  
 22 funds and transfer such funds to “Supplemental Discre-  
 23 tionary Grants for a National Surface Transportation Sys-  
 24 tem”: *Provided further*, That at the request of a State,  
 25 the Secretary of Transportation may provide an extension



1 of such 1-year period only to the extent that he or she  
2 feels satisfied that the State has encountered extreme con-  
3 ditions that create an unworkable bidding environment or  
4 other extenuating circumstances: *Provided further*, That  
5 before granting a such an extension, the Secretary shall  
6 send a letter to the House and Senate Committees on Ap-  
7 propriations that provides a thorough justification for the  
8 extension: *Provided further*, That the provisions of sub-  
9 sections 133(d)(3) and 133(d)(4) of title 23, United  
10 States Code, shall apply to funds apportioned under this  
11 heading, except that the percentage of funds to be allo-  
12 cated to local jurisdictions shall be 40 percent and such  
13 allocation, notwithstanding any other provision of law,  
14 shall be conducted in all states within the United States:  
15 *Provided further*, That funds allocated to such urbanized  
16 areas and other areas shall not be subject to the redis-  
17 tribution of amounts required 180 days following the date  
18 of apportionment of funds provided under this heading:  
19 *Provided further*, That funds apportioned under this head-  
20 ing may be used for, but not be limited to, projects that  
21 address stormwater runoff, investments in passenger and  
22 freight rail transportation, and investments in port infra-  
23 structure: *Provided further*, that each State shall use not  
24 less than 5 percent of funds apportioned to it for activities  
25 eligible under subsections 149(b) and (c) of title 23,

1 United States Code: *Provided further*, That of the funds  
 2 provided under this heading, \$60,000,000 shall be for cap-  
 3 ital expenditures eligible under section 147 of title 23,  
 4 United States Code: *Provided further*, That the Secretary  
 5 of Transportation shall distribute such \$60,000,000 as  
 6 competitive discretionary grants to States, with priority  
 7 given to those projects that demonstrate to his or her sat-  
 8 isfaction their ability to be completed within 2 years of  
 9 enactment of this Act: *Provided further*, That of the funds  
 10 provided under this heading, \$500,000,000 shall be for in-  
 11 vestments in transportation at Indian reservations and  
 12 Federal lands, and administered in accordance with chap-  
 13 ter 2 of title 23, United States Code: *Provided further*,  
 14 That of the funds identified in the preceding proviso,  
 15 \$320,000,000 shall be for the Indian Reservation Roads  
 16 program, \$100,000,000 shall be for the Park Roads and  
 17 Parkways program, \$70,000,000 shall be for the Forest  
 18 Highway Program, and \$10,000,000 shall be for the Ref-  
 19 uge Roads program: *Provided further*, That for invest-  
 20 ments at Indian reservations and Federal lands, priority  
 21 shall be given to capital investments, and to projects and  
 22 activities that can be completed within 2 years of enact-  
 23 ment of this Act: *Provided further*, That 1 year following  
 24 the enactment of this Act, to ensure the prompt use of  
 25 the \$500,000,000 provided for investments at Indian res-

1 ervations and Federal lands, the Secretary shall have the  
2 authority to redistribute unobligated funds within the re-  
3 spective program for which the funds were appropriated:  
4 *Provided further*, That up to 4 percent of the funding pro-  
5 vided for Indian Reservation Roads may be used by the  
6 Secretary of the Interior for program management and  
7 oversight and project-related administrative expenses: *Pro-*  
8 *vided further*, That section 134(f)(3)(C)(ii)(II) of title 23,  
9 United States Code, shall not apply to funds provided  
10 under this heading: *Provided further*, That the Federal  
11 share payable on account of any project or activity carried  
12 out with funds made available under this heading shall  
13 be at the option of the recipient, and may be up to 100  
14 percent of the total cost thereof: *Provided further*, That  
15 funding provided under this heading shall be in addition  
16 to any and all funds provided for fiscal years 2008 and  
17 2009 in any other Act for “Federal-aid Highways” and  
18 shall not affect the distribution of funds provided for  
19 “Federal-aid Highways” in any other Act: *Provided fur-*  
20 *ther*, That the amount made available under this heading  
21 shall not be subject to any limitation on obligations for  
22 Federal-aid highways or highway safety construction pro-  
23 grams set forth in any Act: *Provided further*, That projects  
24 conducted using funds provided under this heading must  
25 comply with the requirements of subchapter IV of chapter

1 31 of title 40, United States Code: *Provided further*, That  
 2 section 313 of title 23, United States Code, shall apply  
 3 to funds provided under this heading: *Provided further*,  
 4 That section 1101(b) of Public Law 109–59 shall apply  
 5 to funds apportioned under this heading: *Provided further*,  
 6 That for the purposes of the definition of States for this  
 7 paragraph, sections 101(a)(32) of title 23, United States  
 8 Code, shall apply: *Provided further*, That the Adminis-  
 9 trator of the Federal Highway Administration may retain  
 10 up to \$12,000,000 of the funds provided under this head-  
 11 ing to carry out the function of the “Federal Highway Ad-  
 12 ministration, Limitation on Administrative Expenses” and  
 13 to fund the oversight by the Administrator of projects and  
 14 activities carried out with funds made available to the  
 15 Federal Highway Administration in this Act.

## 16 FEDERAL RAILROAD ADMINISTRATION

### 17 SUPPLEMENTAL GRANTS TO STATES FOR INTERCITY

#### 18 PASSENGER RAIL SERVICE

19 For an additional amount for discretionary grants to  
 20 States to pay for the cost of projects described in para-  
 21 graphs (2)(A) and (2)(B) of section 24401 of title 49,  
 22 United States Code, and subsection (b) of section 24105  
 23 of such title, \$250,000,000: *Provided*, That to be eligible  
 24 for assistance under this paragraph, the specific project  
 25 must be on a Statewide Transportation Improvement Plan

1 at the time of the application to qualify: *Provided further*,  
 2 That the Secretary of Transportation shall give priority  
 3 to projects that demonstrate an ability to be completed  
 4 within 2 years of enactment of this Act, and to projects  
 5 that improve the safety and reliability of intercity pas-  
 6 senger trains: *Provided further*, That the Federal share  
 7 payable of the costs for which a grant is made under this  
 8 heading shall be 100 percent: *Provided further*, That  
 9 projects conducted using funds provided under this head-  
 10 ing must comply with the requirements of subchapter IV  
 11 of chapter 31 of title 40, United States Code: *Provided*  
 12 *further*, That section 24405(a) of title 49, United States  
 13 Code, shall apply to funds provided under this heading:  
 14 *Provided further*, That the Administrator of the Federal  
 15 Railroad Administration may retain and transfer to “Fed-  
 16 eral Railroad Administration, Safety and Operations” up  
 17 to one-quarter of 1 percent of the funds provided under  
 18 this heading to fund the award and oversight by the Ad-  
 19 ministrator of grants made under this heading.

20 SUPPLEMENTAL CAPITAL GRANTS TO THE NATIONAL  
 21 RAILROAD PASSENGER CORPORATION

22 For an additional amount for the immediate invest-  
 23 ment in capital projects necessary to maintain and im-  
 24 prove national intercity passenger rail service, including  
 25 the rehabilitation of rolling stock, \$850,000,000: *Provided*,  
 26 That funds made available under this heading shall be al-

1 located directly to the National Railroad Passenger Cor-  
 2 poration: *Provided further*, That the Board of Directors  
 3 of the corporation shall take measures to ensure that pri-  
 4 ority is given to capital projects that expand passenger  
 5 rail capacity: *Provided further*, That the Board of Direc-  
 6 tors shall take measures to ensure that projects funded  
 7 under this heading shall be completed within 2 years of  
 8 enactment of this Act, and shall serve to supplement and  
 9 not supplant planned expenditures for such activities from  
 10 other Federal, State, local and corporate sources: *Provided*  
 11 *further*, That said Board of Directors shall certify to the  
 12 House and Senate Committees on Appropriations in writ-  
 13 ing their compliance with the preceding proviso: *Provided*  
 14 *further*, That section 24305(f) of title 49, United States  
 15 Code, shall apply to funds provided under this heading:  
 16 *Provided further*, That not more than 50 percent of the  
 17 funds provided under this heading may be used for capital  
 18 projects along the Northeast Corridor.

19 HIGH-SPEED RAIL CORRIDOR PROGRAM

20 To make grants for high-speed rail projects under the  
 21 provisions of section 26106 of title 49, United States  
 22 Code, \$2,000,000,000, to remain available until Sep-  
 23 tember 30, 2011: *Provided*, That the Federal share pay-  
 24 able of the costs for which a grant is made under this  
 25 heading shall be 100 percent: *Provided further*, That the  
 26 Administrator of the Federal Railroad Administration

1 may retain and transfer to “Federal Railroad Administra-  
 2 tion, Safety and Operations” up to one-quarter of 1 per-  
 3 cent of the funds provided under this heading to fund the  
 4 award and oversight by the Administrator of grants made  
 5 under this paragraph.

6                   FEDERAL TRANSIT ADMINISTRATION

7                   SUPPLEMENTAL GRANTS FOR PUBLIC TRANSIT

8                   INVESTMENT

9           For an additional amount for capital expenditures  
 10 authorized under section 5302(a)(1) of title 49, United  
 11 States Code, \$8,400,000,000: *Provided*, That the Sec-  
 12 retary of Transportation shall apportion 71 percent of the  
 13 funds apportioned under this heading using the formula  
 14 set forth in subsections (a) through (c) of section 5336  
 15 of title 49, United States Code, 19 percent of the funds  
 16 apportioned under this heading using the formula set  
 17 forth in section 5340 of such title, and 10 percent of the  
 18 funding apportioned under this heading using the formula  
 19 set forth in subsection 5311(c) of such title: *Provided fur-*  
 20 *ther*, That 180 days following the date of such apporportion-  
 21 ment, the Secretary shall withdraw from each grantee an  
 22 amount equal to 50 percent of the funds awarded to that  
 23 grantee less the amount of funding obligated, and the Sec-  
 24 retary shall redistribute such amounts to other grantees  
 25 that have had no funds withdrawn under this proviso uti-

1 lizing whatever method he or she deems appropriate to en-  
2 sure that all funds provided under this paragraph shall  
3 be utilized promptly: *Provided further*, That 1 year fol-  
4 lowing the date of such apportionment, the Secretary shall  
5 withdraw from each grantee any unobligated funds and  
6 transfer such funds to “Supplemental Discretionary  
7 Grants for a National Surface Transportation System”:  
8 *Provided further*, That at the request of a grantee, the  
9 Secretary of Transportation may provide an extension of  
10 such 1-year periods if he or she feels satisfied that the  
11 grantee has encountered an unworkable bidding environ-  
12 ment or other extenuating circumstances: *Provided fur-*  
13 *ther*, That before granting such an extension, the Sec-  
14 retary shall send a letter to the House and Senate Com-  
15 mittees on Appropriations that provides a thorough jus-  
16 tification for the extension: *Provided further*, That of the  
17 funds apportioned using the formula set forth in sub-  
18 section 5311(c) of title 49, United States Code, 2 percent  
19 shall be made available for section 5311(c)(1): *Provided*  
20 *further*, That of the funding provided under this heading,  
21 \$200,000,000 shall be distributed as discretionary grants  
22 to public transit agencies for capital investments that will  
23 assist in reducing the energy consumption or greenhouse  
24 gas emissions of their public transportation systems: *Pro-*  
25 *vided further*, That for such grants on energy-related in-



1 vestments, priority shall be given to projects based on the  
2 total energy savings that are projected to result from the  
3 investment, and projected energy savings as a percentage  
4 of the total energy usage of the public transit agency: *Pro-*  
5 *vided further*, That the Federal share of the costs for  
6 which any grant is made under this heading shall be at  
7 the option of the recipient, and may be up to 100 percent:  
8 *Provided further*, That the amount made available under  
9 this heading shall not be subject to any limitation on obli-  
10 gations for transit programs set forth in any Act: *Provided*  
11 *further*, That section 1101(b) of Public Law 109–59 shall  
12 apply to funds apportioned under this heading: *Provided*  
13 *further*, That the funds appropriated under this heading  
14 shall be subject to subsection 5323(j) and section 5333  
15 of title 49, United States Code as well as sections 5304  
16 and 5305 of said title, as appropriate, but shall not be  
17 comingled with funds available under the Formula and  
18 Bus Grants account: *Provided further*, That the Adminis-  
19 trator of the Federal Transit Administration may retain  
20 up to \$3,000,000 of the funds provided under this heading  
21 to carry out the function of “Federal Transit Administra-  
22 tion, Administrative Expenses” and to fund the oversight  
23 of grants made under this heading by the Administrator.

## 1 MARITIME ADMINISTRATION

2 SUPPLEMENTAL GRANTS FOR ASSISTANCE TO SMALL  
3 SHIPYARDS

4 To make grants to qualified shipyards as authorized  
5 under section 3506 of Public Law 109–163 or section  
6 54101 of title 46, United States Code, \$100,000,000: *Pro-*  
7 *vided*, That the Secretary of Transportation shall institute  
8 measures to ensure that funds provided under this head-  
9 ing shall be obligated within 180 days of the date of their  
10 distribution: *Provided further*, That the Maritime Adminis-  
11 trator may retain and transfer to “Maritime Administra-  
12 tion, Operations and Training” up to 2 percent of the  
13 funds provided under this heading to fund the award and  
14 oversight by the Administrator of grants made under this  
15 heading.

## 16 OFFICE OF INSPECTOR GENERAL

## 17 SALARIES AND EXPENSES

18 For an additional amount for necessary expenses of  
19 the Office of Inspector General to carry out the provisions  
20 of the Inspector General Act of 1978, as amended,  
21 \$7,750,000, to remain available until September 30, 2011:  
22 *Provided*, That the funding made available under this  
23 heading shall be used for conducting audits and investiga-  
24 tions of projects and activities carried out with funds made  
25 available in this Act to the Department of Transportation

1 and to the National Railroad Passenger Corporation: *Pro-*  
 2 *vided further*, That the Inspector General shall have all  
 3 necessary authority, in carrying out the duties specified  
 4 in the Inspector General Act, as amended (5 U.S.C. App.  
 5 3), to investigate allegations of fraud, including false  
 6 statements to the Government (18 U.S.C. 1001), by any  
 7 person or entity that is subject to regulation by the De-  
 8 partment.

9       GENERAL PROVISION—DEPARTMENT OF  
 10                                   TRANSPORTATION

11       SEC. 1201. Section 5309(g)(4)(A) of title 49, United  
 12 States Code, is amended by striking “or an amount equiv-  
 13 alent to the last 3 fiscal years of funding allocated under  
 14 subsections (m)(1)(A) and (m)(2)(A)(ii)” and inserting  
 15 “or the sum of the funds available for the next 3 fiscal  
 16 years beyond the current fiscal year, assuming an annual  
 17 growth of the program of 10 percent”.

18       DEPARTMENT OF HOUSING AND URBAN  
 19                                   DEVELOPMENT

20       NATIVE AMERICAN HOUSING BLOCK GRANTS

21       For an additional amount for “Native American  
 22 Housing Block Grants”, as authorized under title I of the  
 23 Native American Housing Assistance and Self-Determina-  
 24 tion Act of 1996 (“NAHASDA”) (25 U.S.C. 4111 et  
 25 seq.), \$510,000,000, to remain available until September

1 30, 2011: *Provided*, That \$255,000,000 of the amount  
2 provided under this heading shall be distributed according  
3 to the same funding formula used in fiscal year 2008: *Pro-*  
4 *vided further*, That in selecting projects to be funded, re-  
5 cipients shall give priority to projects that can award con-  
6 tracts based on bids within 180 days from the date that  
7 funds are available to recipients: *Provided further*, That  
8 the Secretary shall obligate \$255,000,000 of the amount  
9 provided under this heading for competitive grants to eligi-  
10 ble entities that apply for funds authorized under  
11 NAHASDA: *Provided further*, That in awarding competi-  
12 tive funds, the Secretary shall give priority to projects that  
13 will spur construction and rehabilitation and will create  
14 employment opportunities for low-income and unemployed  
15 persons: *Provided further*, That recipients of funds under  
16 this heading shall obligate 100 percent of such funds with-  
17 in 1 year of the date of enactment of this Act, expend  
18 at least 50 percent of such funds within 2 years of the  
19 date on which funds become available to such jurisdictions  
20 for obligation, and expend 100 percent of such funds with-  
21 in 3 years of such date: *Provided further*, That if a recipi-  
22 ent fails to comply with either the 1-year obligation re-  
23 quirement or the 2-year expenditure requirement, the Sec-  
24 retary shall recapture all remaining funds awarded to the  
25 recipient and reallocate such funds to recipients that are

1 in compliance with those requirements: *Provided further,*  
2 That if a recipient fails to comply with the 3-year expendi-  
3 ture requirement, the Secretary shall recapture the bal-  
4 ance of the funds awarded to the recipient: *Provided fur-*  
5 *ther,* That, notwithstanding any other provision of this  
6 paragraph, the Secretary may institute measures to en-  
7 sure participation in the formula and competitive alloca-  
8 tion of funds provided under this paragraph by any hous-  
9 ing entity eligible to receive funding under title VIII of  
10 NAHASDA (25 U.S.C. 4221 et seq.): *Provided further,*  
11 That in administering funds provided in this heading, the  
12 Secretary may waive any provision of any statute or regu-  
13 lation that the Secretary administers in connection with  
14 the obligation by the Secretary or the use by the recipient  
15 of these funds except for requirements imposed by this  
16 heading and requirements related to fair housing, non-  
17 discrimination, labor standards, and the environment,  
18 upon a finding that such waiver is required to facilitate  
19 the timely use of such funds and would not be inconsistent  
20 with the overall purpose of the statute or regulation: *Pro-*  
21 *vided further,* That, of the funds made available under this  
22 heading, up to 1 percent shall be available for staffing,  
23 training, technical assistance, technology, monitoring, re-  
24 search and evaluation activities: *Provided further,* That  
25 any funds made available under this heading used by the

1 Secretary for personnel expenses shall be transferred to  
 2 and merged with funding provided to “Personnel Com-  
 3 pensation and Benefits, Office of Public and Indian Hous-  
 4 ing”: *Provided further*, That any funds made available  
 5 under this heading used by the Secretary for training or  
 6 other administrative expenses shall be transferred to and  
 7 merged with funding provided to “Administration, Oper-  
 8 ations, and Management”, for non-personnel expenses of  
 9 the Department of Housing and Urban Development: *Pro-*  
 10 *vided further*, That any funds made available under this  
 11 heading used by the Secretary for technology shall be  
 12 transferred to and merged with the funding provided to  
 13 “Working Capital Fund”.

#### 14 PUBLIC HOUSING CAPITAL FUND

15 For an additional amount for the “Public Housing  
 16 Capital Fund” to carry out capital and management ac-  
 17 tivities for public housing agencies, as authorized under  
 18 section 9 of the United States Housing Act of 1937 (42  
 19 U.S.C. 1437g) (the “Act”), \$5,000,000,000, to remain  
 20 available until September 30, 2011: *Provided*, That the  
 21 Secretary of Housing and Urban Development shall allo-  
 22 cate \$3,000,000,000 of this amount by the formula au-  
 23 thorized under section 9(d)(2) of the Act, except that the  
 24 Secretary may determine not to allocate funding to public  
 25 housing agencies currently designated as troubled or to

1 public housing agencies that elect not to accept such fund-  
2 ing: *Provided further*, That the Secretary shall make avail-  
3 able \$2,000,000,000 by competition for priority invest-  
4 ments, including investments that leverage private sector  
5 funding or financing for renovations and energy conserva-  
6 tion retrofit investments: *Provided further*, That public  
7 housing agencies shall prioritize capital projects that are  
8 already underway or included in the 5-year capital fund  
9 plans required by the Act (42 U.S.C. 1437c–1(a)): *Pro-*  
10 *vided further*, That in allocating competitive grants under  
11 this heading, the Secretary shall give priority consider-  
12 ation to the rehabilitation of vacant rental units: *Provided*  
13 *further*, That notwithstanding any other provision of law,  
14 (1) funding provided herein may not be used for operating  
15 or rental assistance activities, and (2) any restriction of  
16 funding to replacement housing uses shall be inapplicable:  
17 *Provided further*, That notwithstanding any other provi-  
18 sion of law, the Secretary shall institute measures to en-  
19 sure that funds provided under this heading shall serve  
20 to supplement and not supplant expenditures from other  
21 Federal, State, or local sources or funds independently  
22 generated by the grantee: *Provided further*, That notwith-  
23 standing section 9(j), public housing agencies shall obli-  
24 gate 100 percent of the funds within 1 year of the date  
25 of enactment of this Act, shall expend at least 60 percent

1 of funds within 2 years of the date on which funds become  
2 available to the agency for obligation, and shall expend  
3 100 percent of the funds within 3 years of such date: *Pro-*  
4 *vided further*, That if a public housing agency fails to com-  
5 ply with either the 1-year obligation requirement or the  
6 2-year expenditure requirement, the Secretary shall recap-  
7 ture all remaining funds awarded to the public housing  
8 agency and reallocate such funds to agencies that are in  
9 compliance with those requirements: *Provided further*,  
10 That if a public housing agency fails to comply with the  
11 3-year expenditure requirement, the Secretary shall recap-  
12 ture the balance of the funds awarded to the public hous-  
13 ing agency: *Provided further*, That in administering funds  
14 provided in this heading, the Secretary may waive any pro-  
15 vision of any statute or regulation that the Secretary ad-  
16 ministers in connection with the obligation by the Sec-  
17 retary or the use by the recipient of these funds except  
18 for requirements imposed by this heading and require-  
19 ments related to conditions on use of funds for develop-  
20 ment and modernization, fair housing, non-discrimination,  
21 labor standards, and the environment, upon a finding that  
22 such waiver is required to facilitate the timely use of such  
23 funds and would not be inconsistent with the overall pur-  
24 pose of the statute or regulation: *Provided further*, That  
25 of the funds made available under this heading, up to 1



1 percent shall be available for staffing, training, technical  
 2 assistance, technology, monitoring, research and evalua-  
 3 tion activities: *Provided further*, That any funds made  
 4 available under this heading used by the Secretary for per-  
 5 sonnel expenses shall be transferred to and merged with  
 6 funding provided to “Personnel Compensation and Bene-  
 7 fits, Office of Public and Indian Housing”: *Provided fur-*  
 8 *ther*, That any funds made available under this heading  
 9 used by the Secretary for training or other administrative  
 10 expenses shall be transferred to and merged with funding  
 11 provided to “Administration, Operations, and Manage-  
 12 ment”, for non-personnel expenses of the Department of  
 13 Housing and Urban Development: *Provided further*, That  
 14 any funds made available under this heading used by the  
 15 Secretary for technology shall be transferred to and  
 16 merged with the funding provided to “Working Capital  
 17 Fund”.

#### 18 NEIGHBORHOOD STABILIZATION PROGRAM

19 For the provision of emergency assistance for the re-  
 20 development of abandoned and foreclosed homes, as au-  
 21 thorized by title III of division B of the Housing and Eco-  
 22 nomic Recovery Act of 2008 (the “Act”) (42 U.S.C. 5301  
 23 note), \$2,250,000,000, to remain available until Sep-  
 24 tember 30, 2011: *Provided*, That funding shall be allo-  
 25 cated by a competition for which eligible entities shall be

1 States, units of general local government, and nonprofit  
2 entities or consortia of nonprofit entities, which may sub-  
3 mit proposals in partnership with for-profit entities: *Pro-*  
4 *vided further*, That in selecting grantees the Secretary  
5 shall ensure that the grantee can expend funding within  
6 the period allowed under this heading: *Provided further*,  
7 That additional award criteria for such competition shall  
8 include demonstrated grantee capacity to execute projects,  
9 leveraging potential, targeted impact of foreclosure pre-  
10 vention, neighborhood stabilization, and any additional  
11 factors determined by the Secretary of Housing and  
12 Urban Development: *Provided further*, That the Secretary  
13 may establish a minimum grant size: *Provided further*,  
14 That the Secretary shall publish criteria on which to base  
15 the competition for any grants awarded under this heading  
16 not later than 75 days after the enactment of this Act  
17 and applications shall be due not later than 180 days after  
18 the enactment of this Act: *Provided further*, That the Sec-  
19 retary shall award all funding within 1 year of enactment  
20 of this Act: *Provided further*, That grantees shall expend  
21 at least 75 percent of allocated funds within 2 years of  
22 the date funds become available to the grantees for obliga-  
23 tion and 100 percent of such funds within 3 years of such  
24 date: *Provided further*, That funding used for section  
25 2301(c)(3)(E) of the Act shall be available only for the

1 redevelopment of demolished or vacant properties as hous-  
2 ing: *Provided further*, That in addition to the eligible uses  
3 in section 2301, the Secretary may also use up to 10 per-  
4 cent of the funds provided under this heading for grantees  
5 for the provision of capacity building of and support for  
6 local communities receiving funding under section 2301 of  
7 the Act or under this heading: *Provided further*, That the  
8 construction or rehabilitation of early childhood and devel-  
9 opment centers serving households that qualify as low in-  
10 come shall also be an eligible use of funding: *Provided fur-*  
11 *ther*, That in addition to the allowable uses of revenues  
12 provided in section 2301 of the Act, any revenues gen-  
13 erated in the first 5 years using the funds provided under  
14 this heading may be used by the State or applicable unit  
15 of general local government for maintenance associated  
16 with property acquisition and holding and with land bank-  
17 ing activities: *Provided further*, That of the funds provided  
18 under this heading, up to 1.5 percent shall be available  
19 for staffing, training, technical assistance, technology,  
20 monitoring, research and evaluation activities: *Provided*  
21 *further*, That any funds made available under this heading  
22 used by the Secretary for personnel expense shall be trans-  
23 ferred to and merged with funding provided to “Commu-  
24 nity Planning and Development Personnel Compensation  
25 and Benefits”: *Provided further*, That any funds made

1 available under this heading used by the Secretary for  
 2 training or other administrative expenses shall be trans-  
 3 ferred to and merged with funding provided to “Adminis-  
 4 tration, Operations, and Management” for non-personnel  
 5 expenses of the Department of Housing and Urban Devel-  
 6 opment: *Provided further*, That any funding made avail-  
 7 able under this heading used by the Secretary for tech-  
 8 nology shall be transferred to and merged with the fund-  
 9 ing provided to “Working Capital Fund.”

#### 10 HOME INVESTMENT PARTNERSHIPS PROGRAM

11 For an additional amount for the “HOME Invest-  
 12 ment Partnerships Program” as authorized under title II  
 13 of the Cranston-Gonzalez National Affordable Housing  
 14 Act (the “Act”), \$2,250,000,000, to remain available until  
 15 September 30, 2011: *Provided*, That except as specifically  
 16 provided herein, funds provided under this heading shall  
 17 be distributed pursuant to the formula authorized by sec-  
 18 tion 217 of the Act: *Provided further*, That the Secretary  
 19 may establish a minimum grant size: *Provided further*,  
 20 That participating jurisdictions shall obligate 100 percent  
 21 of the funds within 1 year of the date of enactment of  
 22 this Act, shall expend at least 60 percent of funds within  
 23 2 years of the date on which funds become available to  
 24 the participating jurisdiction for obligation and shall ex-  
 25 pend 100 percent of the funds within 3 years of such date:

1 *Provided further*, That if a participating jurisdiction fails  
2 to comply with either the 1-year obligation requirement  
3 or the 2-year expenditure requirement, the Secretary shall  
4 recapture all remaining funds awarded to the participating  
5 jurisdiction and reallocate such funds to participating ju-  
6 risdictions that are in compliance with those requirements:  
7 *Provided further*, That if a participating jurisdiction fails  
8 to comply with the 3-year expenditure requirement, the  
9 Secretary shall recapture the balance of the funds awarded  
10 to the participating jurisdiction: *Provided further*, That in  
11 administering funds under this heading, the Secretary  
12 may waive any provision of any statute or regulation that  
13 the Secretary administers in connection with the obliga-  
14 tion by the Secretary or the use by the recipient of these  
15 funds except for requirements imposed by this heading  
16 and requirements related to fair housing, non-discrimina-  
17 tion, labor standards and the environment, upon a finding  
18 that such waiver is required to facilitate the timely use  
19 of such funds and would not be inconsistent with the over-  
20 all purpose of the statute or regulation: *Provided further*,  
21 That the Secretary may use funds provided under this  
22 heading to provide incentives to grantees to use funding  
23 for investments in energy efficiency and green building  
24 technology: *Provided further*, That such incentives may in-  
25 clude allocation of up to 20 percent of funds made avail-

1 able under this heading other than pursuant to the for-  
 2 mula authorized by section 217 of the Act: *Provided fur-*  
 3 *ther*, That, of the funds made available under this heading,  
 4 up to 1 percent shall be available for staffing, training,  
 5 technical assistance, technology, monitoring, research and  
 6 evaluation activities: *Provided further*, That any funds  
 7 made available under this heading used by the Secretary  
 8 for personnel expenses shall be transferred to and merged  
 9 with funding provided to “Personnel Compensation and  
 10 Benefits, Office of Community Planning and Develop-  
 11 ment”: *Provided further*, That any funds made available  
 12 under this heading used by the Secretary for training or  
 13 other administrative expenses shall be transferred to and  
 14 merged with funding provided to “Administration, Oper-  
 15 ations, and Management”, for non-personnel expenses of  
 16 the Department of Housing and Urban Development: *Pro-*  
 17 *vided further*, That any funds made available under this  
 18 heading used by the Secretary for technology shall be  
 19 transferred to and merged with the funding provided to  
 20 “Working Capital Fund”.

#### 21 HOMELESSNESS PREVENTION FUND

22 For homelessness prevention activities,  
 23 \$1,500,000,000, to remain available until September 30,  
 24 2011: *Provided*, That funds provided under this heading  
 25 shall be used for the provision of short-term or medium-

1 term rental assistance; housing relocation and stabiliza-  
2 tion services including housing search, mediation or out-  
3 reach to property owners, credit repair, security or utility  
4 deposits, utility payments, rental assistance for a final  
5 month at a location, and moving cost assistance; or other  
6 appropriate homelessness prevention activities: *Provided*  
7 *further*, That grantees receiving such assistance shall col-  
8 lect data on the use of the funds awarded and persons  
9 served with this assistance in the Homeless Management  
10 Information System (HMIS) or other comparable data-  
11 base: *Provided further*, That grantees may use up to 5 per-  
12 cent of any grant for administrative costs: *Provided fur-*  
13 *ther*, That funding made available under this heading shall  
14 be allocated to eligible grantees (as defined and designated  
15 in sections 411 and 412 of subtitle B of title IV of the  
16 McKinney-Vento Homeless Assistance Act, (the “Act”))  
17 pursuant to the formula authorized by section 413 of the  
18 Act: *Provided further*, That the Secretary may establish  
19 a minimum grant size: *Provided further*, That grantees  
20 shall expend at least 75 percent of funds within 2 years  
21 of the date that funds became available to them for obliga-  
22 tion, and 100 percent of funds within 3 years of such date,  
23 and the Secretary may recapture unexpended funds in vio-  
24 lation of the 2-year expenditure requirement and reallo-  
25 cate such funds to grantees in compliance with that re-

1 quirement: *Provided further*, That the Secretary may  
2 waive statutory or regulatory provisions (except provisions  
3 for fair housing, nondiscrimination, labor standards, and  
4 the environment) necessary to facilitate the timely expend-  
5 iture of funds: *Provided further*, That the Secretary shall  
6 publish a notice to establish such requirements as may be  
7 necessary to carry out the provisions of this section within  
8 30 days of enactment of the Act and that this notice shall  
9 take effect upon issuance: *Provided further*, That of the  
10 funds provided under this heading, up to 1.5 percent shall  
11 be available for staffing, training, technical assistance,  
12 technology, monitoring, research and evaluation activities:  
13 *Provided further*, That any funds made available under  
14 this heading used by the Secretary for personnel expense  
15 shall be transferred to and merged with funding provided  
16 to “Community Planning and Development Personnel  
17 Compensation and Benefits”: *Provided further*, That any  
18 funds made available under this heading used by the Sec-  
19 retary for training or other administrative expenses shall  
20 be transferred to and merged with funding provided to  
21 “Administration, Operations, and Management” for non-  
22 personnel expenses of the Department of Housing and  
23 Urban Development: *Provided further*, That any funding  
24 made available under this heading used by the Secretary



1 for technology shall be transferred to and merged with the  
 2 funding provided to “Working Capital Fund.”

3 ASSISTED HOUSING STABILITY AND ENERGY AND  
 4 GREEN RETROFIT INVESTMENTS

5 For assistance to owners of properties receiving  
 6 project-based assistance pursuant to section 202 of the  
 7 Housing Act of 1959 (12 U.S.C. 17012), section 811 of  
 8 the Cranston-Gonzalez National Affordable Housing Act  
 9 (42 U.S.C. 8013), or section 8 of the United States Hous-  
 10 ing Act of 1937 as amended (42 U.S.C. 1437f),  
 11 \$3,500,000,000, of which \$2,132,000,000 shall be for an  
 12 additional amount for paragraph (1) under the heading  
 13 “Project-Based Rental Assistance” in Public Law 110–  
 14 161 for payments to owners for 12-month periods, and  
 15 of which \$1,368,000,000 shall be for grants or loans for  
 16 energy retrofit and green investments in such assisted  
 17 housing: *Provided*, That projects funded with grants or  
 18 loans provided under this heading must comply with the  
 19 requirements of subchapter IV of chapter 31 of title 40,  
 20 United States Code: *Provided further*, That such grants  
 21 or loans shall be provided through the existing policies,  
 22 procedures, contracts, and transactional infrastructure of  
 23 the authorized programs administered by the Office of Af-  
 24 fordable Housing Preservation of the Department of  
 25 Housing and Urban Development, on such terms and con-

1 ditions as the Secretary of Housing and Urban Develop-  
2 ment deems appropriate to ensure the maintenance and  
3 preservation of the property, the continued operation and  
4 maintenance of energy efficiency technologies, and the  
5 timely expenditure of funds: *Provided further*, That the  
6 Secretary may provide incentives to owners to undertake  
7 energy or green retrofits as a part of such grant or loan  
8 terms, including, but not limited to, investment fees to  
9 cover oversight and implementation costs incurred by said  
10 owner, or to encourage job creation for low-income or very  
11 low-income individuals: *Provided further*, That the grants  
12 or loans shall include a financial assessment and physical  
13 inspection of such property: *Provided further*, That eligible  
14 owners must have at least a satisfactory management re-  
15 view rating, be in substantial compliance with applicable  
16 performance standards and legal requirements, and com-  
17 mit to an additional period of affordability determined by  
18 the Secretary, but of not fewer than 15 years: *Provided*  
19 *further*, That the Secretary shall undertake appropriate  
20 underwriting and oversight with respect to grant and loan  
21 transactions and may set aside up to 5 percent of the  
22 funds made available under this heading for grants or  
23 loans for such purpose: *Provided further*, That the Sec-  
24 retary shall take steps necessary to ensure that owners  
25 receiving funding for energy and green retrofit invest-

1 ments under this heading shall expend such funding with-  
2 in 2 years of the date they received the funding: *Provided*  
3 *further*, That the Secretary may waive or modify statutory  
4 or regulatory requirements with respect to any existing  
5 grant, loan, or insurance mechanism authorized to be used  
6 by the Secretary to enable or facilitate the accomplishment  
7 of investments supported with funds made available under  
8 this heading for grants or loans: *Provided further*, That  
9 of the funds provided under this heading, up to 1.5 per-  
10 cent shall be available for staffing, training, technical as-  
11 sistance, technology, monitoring, research and evaluation  
12 activities: *Provided further*, That funding made available  
13 under this heading and used by the Secretary for per-  
14 sonnel expenses shall be transferred to and merged with  
15 funding provided to “Housing Compensation and Bene-  
16 fits”: *Provided further*, That any funding made available  
17 under this heading used by the Secretary for training and  
18 other administrative expenses shall be transferred to and  
19 merged with funding provided to “Administration, Oper-  
20 ations and Management” for non-personnel expenses of  
21 the Department of Housing and Urban Development: *Pro-*  
22 *vided further*, That any funding made available under this  
23 heading used by the Secretary for technology shall be  
24 transferred to and merged with funding provided to  
25 “Working Capital Fund.”

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1 funds within 2 years of the date on which funds become  
2 available to such jurisdictions for obligation, and expend  
3 100 percent of such funds within 3 years of such date:  
4 *Provided further*, That if a recipient fails to comply with  
5 either the 1-year obligation requirement or the 2-year ex-  
6 penditure requirement, the Secretary shall recapture all  
7 remaining funds awarded to the recipient and reallocate  
8 such funds to recipients that are in compliance with those  
9 requirements: *Provided further*, That if a recipient fails to  
10 comply with the 3-year expenditure requirement, the Sec-  
11 retary shall recapture the balance of the funds awarded  
12 to the recipient: *Provided further*, That in administering  
13 funds provided in this heading, the Secretary may waive  
14 any provision of any statute or regulation that the Sec-  
15 retary administers in connection with the obligation by the  
16 Secretary or the use by the recipient of these funds except  
17 for requirements imposed by this heading and require-  
18 ments related to fair housing, nondiscrimination, labor  
19 standards, and the environment, upon a finding that such  
20 waiver is required to facilitate the timely use of such funds  
21 and would not be inconsistent with the overall purpose of  
22 the statute or regulation: *Provided further*, That, of the  
23 funds made available under this heading, up to 1 percent  
24 shall be available for staffing, training, technical assist-  
25 ance, technology, monitoring, research and evaluation ac-

1 tivities: *Provided further*, That any funds made available  
 2 under this heading used by the Secretary for personnel  
 3 expenses shall be transferred to and merged with funding  
 4 provided to “Personnel Compensation and Benefits, Office  
 5 of Healthy Homes and Lead Hazard Control”: *Provided*  
 6 *further*, That any funds made available under this heading  
 7 used by the Secretary for training or other administrative  
 8 expenses shall be transferred to and merged with funding  
 9 provided to “Administration, Operations, and Manage-  
 10 ment”, for non-personnel expenses of the Department of  
 11 Housing and Urban Development: *Provided further*, That  
 12 any funds made available under this heading used by the  
 13 Secretary for technology shall be transferred to and  
 14 merged with the funding provided to “Working Capital  
 15 Fund”.

#### 16 OFFICE OF INSPECTOR GENERAL

17 For an additional amount for the necessary salaries  
 18 and expenses of the Office of Inspector General in car-  
 19 rying out the Inspector General Act of 1978, as amended,  
 20 \$2,750,000, to remain available until September 30, 2011:  
 21 *Provided*, That the Inspector General shall have inde-  
 22 pendent authority over all personnel issues within this of-  
 23 fice.

1                   **TITLE XIII—HEALTH**  
 2                   **INFORMATION TECHNOLOGY**

3   **SEC. 1301. SHORT TITLE.**

4           This title may be cited as the “Health Information  
 5   Technology for Economic and Clinical Health Act” or the  
 6   “HITECH Act”.

7                   **Subtitle A—Promotion of Health**  
 8                   **Information Technology**

9           **PART I—IMPROVING HEALTH CARE QUALITY,**  
 10                   **SAFETY, AND EFFICIENCY**

11   **SEC. 13101. ONCHIT; STANDARDS DEVELOPMENT AND**  
 12                   **ADOPTION.**

13           The Public Health Service Act (42 U.S.C. 201 et  
 14   seq.) is amended by adding at the end the following:

15   **“TITLE XXX—HEALTH INFORMA-**  
 16           **TION       TECHNOLOGY       AND**  
 17           **QUALITY**

18   **“SEC. 3000. DEFINITIONS.**

19           “In this title:

20                   “(1) CERTIFIED EHR TECHNOLOGY.—The term  
 21           ‘certified EHR technology’ means a qualified elec-  
 22           tronic health record and that is certified pursuant to  
 23           section 3001(c)(5) as meeting standards adopted  
 24           under section 3004 that are applicable to the type  
 25           of record involved (as determined by the Secretary,

1 such as an ambulatory electronic health record for  
2 office-based physicians or an inpatient hospital elec-  
3 tronic health record for hospitals).

4 “(2) ENTERPRISE INTEGRATION.—The term  
5 ‘enterprise integration’ means the electronic linkage  
6 of health care providers, health plans, the govern-  
7 ment, and other interested parties, to enable the  
8 electronic exchange and use of health information  
9 among all the components in the health care infra-  
10 structure in accordance with applicable law, and  
11 such term includes related application protocols and  
12 other related standards.

13 “(3) HEALTH CARE PROVIDER.—The term  
14 ‘health care provider’ means a hospital, skilled nurs-  
15 ing facility, nursing facility, home health entity, or  
16 other long-term care facility, health care clinic,  
17 emergency medical services provider, Federally quali-  
18 fied health center, group practice (as defined in sec-  
19 tion 1877(h)(4) of the Social Security Act), a phar-  
20 macist, a pharmacy, a laboratory, a physician (as  
21 defined in section 1861(r) of the Social Security  
22 Act), a practitioner (as described in section  
23 1842(b)(18)(C) of the Social Security Act), a pro-  
24 vider operated by, or under contract with, the Indian  
25 Health Service or by an Indian tribe (as defined in



1 the Indian Self-Determination and Education Assist-  
 2 ance Act), tribal organization, or urban Indian orga-  
 3 nization (as defined in section 4 of the Indian  
 4 Health Care Improvement Act), a rural health clinic,  
 5 a covered entity under section 340B, and any other  
 6 category of facility or clinician determined appro-  
 7 priate by the Secretary.

8 “(4) HEALTH INFORMATION.—The term ‘health  
 9 information’ has the meaning given such term in  
 10 section 1171(4) of the Social Security Act.

11 “(5) HEALTH INFORMATION TECHNOLOGY.—  
 12 The term ‘health information technology’ means  
 13 hardware, software, integrated technologies and re-  
 14 lated licenses, intellectual property, upgrades, and  
 15 packaged solutions sold as services for use by health  
 16 care entities for the electronic creation, maintenance,  
 17 or exchange of health information.

18 “(6) HEALTH PLAN.—The term ‘health plan’  
 19 has the meaning given such term in section 1171(5)  
 20 of the Social Security Act.

21 “(7) HIT POLICY COMMITTEE.—The term ‘HIT  
 22 Policy Committee’ means such Committee estab-  
 23 lished under section 3002(a).

1           “(8) HIT STANDARDS COMMITTEE.—The term  
2           ‘HIT Standards Committee’ means such Committee  
3           established under section 3003(a).

4           “(9) INDIVIDUALLY IDENTIFIABLE HEALTH IN-  
5           FORMATION.—The term ‘individually identifiable  
6           health information’ has the meaning given such term  
7           in section 1171(6) of the Social Security Act.

8           “(10) LABORATORY.—The term ‘laboratory’  
9           has the meaning given such term in section 353(a).

10          “(11) NATIONAL COORDINATOR.—The term  
11          ‘National Coordinator’ means the head of the Office  
12          of the National Coordinator for Health Information  
13          Technology established under section 3001(a).

14          “(12) PHARMACIST.—The term ‘pharmacist’  
15          has the meaning given such term in section 804(2)  
16          of the Federal Food, Drug, and Cosmetic Act.

17          “(13) QUALIFIED ELECTRONIC HEALTH  
18          RECORD.—The term ‘qualified electronic health  
19          record’ means an electronic record of health-related  
20          information on an individual that—

21                 “(A) includes patient demographic and  
22                 clinical health information, such as medical his-  
23                 tory and problem lists; and

24                 “(B) has the capacity—

1 “(i) to provide clinical decision sup-  
2 port;

3 “(ii) to support physician order entry;

4 “(iii) to capture and query informa-  
5 tion relevant to health care quality; and

6 “(iv) to exchange electronic health in-  
7 formation with, and integrate such infor-  
8 mation from other sources.

9 “(14) STATE.—The term ‘State’ means each of  
10 the several States, the District of Columbia, Puerto  
11 Rico, the Virgin Islands, Guam, American Samoa,  
12 and the Northern Mariana Islands.

## 13 **“Subtitle A—Promotion of Health** 14 **Information Technology**

### 15 **“SEC. 3001. OFFICE OF THE NATIONAL COORDINATOR FOR** 16 **HEALTH INFORMATION TECHNOLOGY.**

17 “(a) ESTABLISHMENT.—There is established within  
18 the Department of Health and Human Services an Office  
19 of the National Coordinator for Health Information Tech-  
20 nology (referred to in this section as the ‘Office’). The Of-  
21 fice shall be headed by a National Coordinator who shall  
22 be appointed by the Secretary and shall report directly to  
23 the Secretary.

24 “(b) PURPOSE.—The National Coordinator shall per-  
25 form the duties under subsection (c) in a manner con-

1 sistent with the development of a nationwide health infor-  
2 mation technology infrastructure that allows for the elec-  
3 tronic use and exchange of information and that—

4           “(1) ensures that each patient’s health informa-  
5 tion is secure and protected, in accordance with ap-  
6 plicable law;

7           “(2) improves health care quality, reduces med-  
8 ical errors, and advances the delivery of patient-cen-  
9 tered medical care;

10           “(3) reduces health care costs resulting from  
11 inefficiency, medical errors, inappropriate care, du-  
12 plicative care, and incomplete information;

13           “(4) provides appropriate information to help  
14 guide medical decisions at the time and place of  
15 care;

16           “(5) ensures the inclusion of meaningful public  
17 input in such development of such infrastructure;

18           “(6) improves the coordination of care and in-  
19 formation among hospitals, laboratories, physician  
20 offices, and other entities through an effective infra-  
21 structure for the secure and authorized exchange of  
22 health care information;

23           “(7) improves public health activities and facili-  
24 tates the early identification and rapid response to

1 public health threats and emergencies, including bio-  
2 terror events and infectious disease outbreaks;

3 “(8) facilitates health and clinical research and  
4 health care quality;

5 “(9) promotes early detection, prevention, and  
6 management of chronic diseases;

7 “(10) promotes a more effective marketplace,  
8 greater competition, greater systems analysis, in-  
9 creased consumer choice, and improved outcomes in  
10 health care services; and

11 “(11) improves efforts to reduce health dispari-  
12 ties.

13 “(c) DUTIES OF THE NATIONAL COORDINATOR.—

14 “(1) STANDARDS.—The National Coordinator  
15 shall review and determine whether to endorse each  
16 standard, implementation specification, and certifi-  
17 cation criterion for the electronic exchange and use  
18 of health information that is recommended by the  
19 HIT Standards Committee under section 3003 for  
20 purposes of adoption under section 3004. The Coor-  
21 dinator shall make such determination, and report to  
22 the Secretary such determination, not later than 45  
23 days after the date the recommendation is received  
24 by the Coordinator.

25 “(2) HIT POLICY COORDINATION.—

1           “(A) IN GENERAL.—The National Coordi-  
2           nator shall coordinate health information tech-  
3           nology policy and programs of the Department  
4           with those of other relevant executive branch  
5           agencies with a goal of avoiding duplication of  
6           efforts and of helping to ensure that each agen-  
7           cy undertakes health information technology ac-  
8           tivities primarily within the areas of its greatest  
9           expertise and technical capability and in a man-  
10          ner towards a coordinated national goal.

11          “(B) HIT POLICY AND STANDARDS COM-  
12          MITTEES.—The National Coordinator shall be a  
13          leading member in the establishment and oper-  
14          ations of the HIT Policy Committee and the  
15          HIT Standards Committee and shall serve as a  
16          liaison among those two Committees and the  
17          Federal Government.

18          “(3) STRATEGIC PLAN.—

19          “(A) IN GENERAL.—The National Coordi-  
20          nator shall, in consultation with other appro-  
21          priate Federal agencies (including the National  
22          Institute of Standards and Technology), update  
23          the Federal Health IT Strategic Plan (devel-  
24          oped as of June 3, 2008) to include specific ob-

1           jectives, milestones, and metrics with respect to  
2           the following:

3                   “(i) The electronic exchange and use  
4                   of health information and the enterprise  
5                   integration of such information.

6                   “(ii) The utilization of an electronic  
7                   health record for each person in the United  
8                   States by 2014.

9                   “(iii) The incorporation of privacy and  
10                  security protections for the electronic ex-  
11                  change of an individual’s individually iden-  
12                  tifiable health information.

13                  “(iv) Ensuring security methods to  
14                  ensure appropriate authorization and elec-  
15                  tronic authentication of health information  
16                  and specifying technologies or methodolo-  
17                  gies for rendering health information unus-  
18                  able, unreadable, or indecipherable.

19                  “(v) Specifying a framework for co-  
20                  ordination and flow of recommendations  
21                  and policies under this subtitle among the  
22                  Secretary, the National Coordinator, the  
23                  HIT Policy Committee, the HIT Standards  
24                  Committee, and other health information  
25                  exchanges and other relevant entities.

1 “(vi) Methods to foster the public un-  
2 derstanding of health information tech-  
3 nology.

4 “(vii) Strategies to enhance the use of  
5 health information technology in improving  
6 the quality of health care, reducing medical  
7 errors, reducing health disparities, improv-  
8 ing public health, increasing prevention  
9 and coordination with community re-  
10 sources, and improving the continuity of  
11 care among health care settings.

12 “(viii) Specific plans for ensuring that  
13 populations with unique needs, such as  
14 children, are appropriately addressed in  
15 the technology design, as appropriate,  
16 which may include technology that  
17 automates enrollment and retention for eli-  
18 gible individuals.

19 “(B) COLLABORATION.—The strategic  
20 plan shall be updated through collaboration of  
21 public and private entities.

22 “(C) MEASURABLE OUTCOME GOALS.—  
23 The strategic plan update shall include measur-  
24 able outcome goals.



1           “(D) PUBLICATION.—The National Coor-  
2           dinator shall republish the strategic plan, in-  
3           cluding all updates.

4           “(4) WEBSITE.—The National Coordinator  
5           shall maintain and frequently update an Internet  
6           website on which there is posted information on the  
7           work, schedules, reports, recommendations, and  
8           other information to ensure transparency in pro-  
9           motion of a nationwide health information tech-  
10          nology infrastructure.

11          “(5) CERTIFICATION.—

12               “(A) IN GENERAL.—The National Coordi-  
13               nator, in consultation with the Director of the  
14               National Institute of Standards and Tech-  
15               nology, shall develop a program (either directly  
16               or by contract) for the voluntary certification of  
17               health information technology as being in com-  
18               pliance with applicable certification criteria  
19               adopted under this subtitle. Such program shall  
20               include testing of the technology in accordance  
21               with section 14201(b) of the Health Informa-  
22               tion Technology for Economic and Clinical  
23               Health Act.

24               “(B) CERTIFICATION CRITERIA DE-  
25               SCRIBED.—In this title, the term ‘certification

1 criteria' means, with respect to standards and  
2 implementation specifications for health infor-  
3 mation technology, criteria to establish that the  
4 technology meets such standards and implemen-  
5 tation specifications.

6 “(6) REPORTS AND PUBLICATIONS.—

7 “(A) REPORT ON ADDITIONAL FUNDING  
8 OR AUTHORITY NEEDED.—Not later than 12  
9 months after the date of the enactment of this  
10 title, the National Coordinator shall submit to  
11 the appropriate committees of jurisdiction of  
12 the House of Representatives and the Senate a  
13 report on any additional funding or authority  
14 the Coordinator or the HIT Policy Committee  
15 or HIT Standards Committee requires to evalu-  
16 ate and develop standards, implementation  
17 specifications, and certification criteria, or to  
18 achieve full participation of stakeholders in the  
19 adoption of a nationwide health information  
20 technology infrastructure that allows for the  
21 electronic use and exchange of health informa-  
22 tion.

23 “(B) IMPLEMENTATION REPORT.—The  
24 National Coordinator shall prepare a report  
25 that identifies lessons learned from major pub-

1       lic and private health care systems in their im-  
2       plementation of health information technology,  
3       including information on whether the tech-  
4       nologies and practices developed by such sys-  
5       tems may be applicable to and usable in whole  
6       or in part by other health care providers.

7               “(C) ASSESSMENT OF IMPACT OF HIT ON  
8       COMMUNITIES WITH HEALTH DISPARITIES AND  
9       UNINSURED, UNDERINSURED, AND MEDICALLY  
10      UNDERSERVED AREAS.—The National Coordi-  
11     nator shall assess and publish the impact of  
12     health information technology in communities  
13     with health disparities and in areas with a high  
14     proportion of individuals who are uninsured,  
15     underinsured, and medically underserved indi-  
16     viduals (including urban and rural areas) and  
17     identify practices to increase the adoption of  
18     such technology by health care providers in  
19     such communities, and the use of health infor-  
20     mation technology to reduce and better manage  
21     chronic diseases.

22              “(D) EVALUATION OF BENEFITS AND  
23     COSTS OF THE ELECTRONIC USE AND EX-  
24     CHANGE OF HEALTH INFORMATION.—The Na-  
25     tional Coordinator shall evaluate and publish

1 evidence on the benefits and costs of the elec-  
2 tronic use and exchange of health information  
3 and assess to whom these benefits and costs ac-  
4 crue.

5 “(E) RESOURCE REQUIREMENTS.—The  
6 National Coordinator shall estimate and publish  
7 resources required annually to reach the goal of  
8 utilization of an electronic health record for  
9 each person in the United States by 2014, in-  
10 cluding the required level of Federal funding,  
11 expectations for regional, State, and private in-  
12 vestment, and the expected contributions by vol-  
13 unteers to activities for the utilization of such  
14 records.

15 “(7) ASSISTANCE.—The National Coordinator  
16 may provide financial assistance to consumer advo-  
17 cacy groups and not-for-profit entities that work in  
18 the public interest for purposes of defraying the cost  
19 to such groups and entities to participate under,  
20 whether in whole or in part, the National Tech-  
21 nology Transfer Act of 1995 (15 U.S.C. 272 note).

22 “(8) GOVERNANCE FOR NATIONWIDE HEALTH  
23 INFORMATION NETWORK.—The National Coordi-  
24 nator shall establish a governance mechanism for the  
25 nationwide health information network.

1 “(d) DETAIL OF FEDERAL EMPLOYEES.—

2 “(1) IN GENERAL.—Upon the request of the  
3 National Coordinator, the head of any Federal agen-  
4 cy is authorized to detail, with or without reimburse-  
5 ment from the Office, any of the personnel of such  
6 agency to the Office to assist it in carrying out its  
7 duties under this section.

8 “(2) EFFECT OF DETAIL.—Any detail of per-  
9 sonnel under paragraph (1) shall—

10 “(A) not interrupt or otherwise affect the  
11 civil service status or privileges of the Federal  
12 employee; and

13 “(B) be in addition to any other staff of  
14 the Department employed by the National Co-  
15 ordinator.

16 “(3) ACCEPTANCE OF DETAILEES.—Notwith-  
17 standing any other provision of law, the Office may  
18 accept detailed personnel from other Federal agen-  
19 cies without regard to whether the agency described  
20 under paragraph (1) is reimbursed.

21 “(e) CHIEF PRIVACY OFFICER OF THE OFFICE OF  
22 THE NATIONAL COORDINATOR.—Not later than 12  
23 months after the date of the enactment of this title, the  
24 Secretary shall appoint a Chief Privacy Officer of the Of-  
25 fice of the National Coordinator, whose duty it shall be

1 to advise the National Coordinator on privacy, security,  
 2 and data stewardship of electronic health information and  
 3 to coordinate with other Federal agencies (and similar pri-  
 4 vacy officers in such agencies), with State and regional  
 5 efforts, and with foreign countries with regard to the pri-  
 6 vacy, security, and data stewardship of electronic individ-  
 7 ually identifiable health information.

8 **“SEC. 3002. HIT POLICY COMMITTEE.**

9       “(a) ESTABLISHMENT.—There is established a HIT  
 10 Policy Committee to make policy recommendations to the  
 11 National Coordinator relating to the implementation of a  
 12 nationwide health information technology infrastructure,  
 13 including implementation of the strategic plan described  
 14 in section 3001(c)(3).

15       “(b) DUTIES.—

16               “(1) RECOMMENDATIONS ON HEALTH INFOR-  
 17 MATION TECHNOLOGY INFRASTRUCTURE.—The HIT  
 18 Policy Committee shall recommend a policy frame-  
 19 work for the development and adoption of a nation-  
 20 wide health information technology infrastructure  
 21 that permits the electronic exchange and use of  
 22 health information as is consistent with the strategic  
 23 plan under section 3001(c)(3) and that includes the  
 24 recommendations under paragraph (2). The Com-

1       mittee shall update such recommendations and make  
2       new recommendations as appropriate.

3               “(2) SPECIFIC AREAS OF STANDARD DEVELOP-  
4       MENT.—

5               “(A) IN GENERAL.—The HIT Policy Com-  
6       mittee shall recommend the areas in which  
7       standards, implementation specifications, and  
8       certification criteria are needed for the elec-  
9       tronic exchange and use of health information  
10      for purposes of adoption under section 3004  
11      and shall recommend an order of priority for  
12      the development, harmonization, and recogni-  
13      tion of such standards, specifications, and cer-  
14      tification criteria among the areas so rec-  
15      ommended. Such standards and implementation  
16      specifications shall include named standards,  
17      architectures, and software schemes for the au-  
18      thentication and security of individually identifi-  
19      able health information and other information  
20      as needed to ensure the reproducible develop-  
21      ment of common solutions across disparate en-  
22      tities.

23               “(B) AREAS REQUIRED FOR CONSIDER-  
24      ATION.—For purposes of subparagraph (A), the

1 HIT Policy Committee shall make recommenda-  
2 tions for at least the following areas:

3 “(i) Technologies that protect the pri-  
4 vacy of health information and promote se-  
5 curity in a qualified electronic health  
6 record, including for the segmentation and  
7 protection from disclosure of specific and  
8 sensitive individually identifiable health in-  
9 formation with the goal of minimizing the  
10 reluctance of patients to seek care (or dis-  
11 close information about a condition) be-  
12 cause of privacy concerns, in accordance  
13 with applicable law, and for the use and  
14 disclosure of limited data sets of such in-  
15 formation.

16 “(ii) A nationwide health information  
17 technology infrastructure that allows for  
18 the electronic use and accurate exchange of  
19 health information.

20 “(iii) The utilization of a certified  
21 electronic health record for each person in  
22 the United States by 2014.

23 “(iv) Technologies that as a part of a  
24 qualified electronic health record allow for  
25 an accounting of disclosures made by a



1 covered entity (as defined for purposes of  
2 regulations promulgated under section  
3 264(c) of the Health Insurance Portability  
4 and Accountability Act of 1996) for pur-  
5 poses of treatment, payment, and health  
6 care operations (as such terms are defined  
7 for purposes of such regulations).

8 “(v) The use of certified electronic  
9 health records to improve the quality of  
10 health care, such as by promoting the co-  
11 ordination of health care and improving  
12 continuity of health care among health  
13 care providers, by reducing medical errors,  
14 by improving population health, reducing  
15 chronic disease, and by advancing research  
16 and education.

17 “(C) OTHER AREAS FOR CONSIDER-  
18 ATION.—In making recommendations under  
19 subparagraph (A), the HIT Policy Committee  
20 may consider the following additional areas:

21 “(i) The appropriate uses of a nation-  
22 wide health information infrastructure, in-  
23 cluding for purposes of—

24 “(I) the collection of quality data  
25 and public reporting;

1 “(II) biosurveillance and public  
2 health;

3 “(III) medical and clinical re-  
4 search; and

5 “(IV) drug safety.

6 “(ii) Self-service technologies that fa-  
7 cilitate the use and exchange of patient in-  
8 formation and reduce wait times.

9 “(iii) Telemedicine technologies, in  
10 order to reduce travel requirements for pa-  
11 tients in remote areas.

12 “(iv) Technologies that facilitate home  
13 health care and the monitoring of patients  
14 recuperating at home.

15 “(v) Technologies that help reduce  
16 medical errors.

17 “(vi) Technologies that facilitate the  
18 continuity of care among health settings.

19 “(vii) Technologies that meet the  
20 needs of diverse populations.

21 “(viii) Technologies and design fea-  
22 tures that address the needs of children  
23 and other vulnerable populations.

24 “(ix) Any other technology that the  
25 HIT Policy Committee finds to be among

1                   the technologies with the greatest potential  
2                   to improve the quality and efficiency of  
3                   health care.

4                   “(3) FORUM.—The HIT Policy Committee shall  
5                   serve as a forum for broad stakeholder input with  
6                   specific expertise in policies relating to the matters  
7                   described in paragraphs (1) and (2).

8                   “(c) MEMBERSHIP AND OPERATIONS.—

9                   “(1) IN GENERAL.—The National Coordinator  
10                  shall provide leadership in the establishment and op-  
11                  erations of the HIT Policy Committee.

12                  “(2) MEMBERSHIP.—The membership of the  
13                  HIT Policy Committee shall at least reflect pro-  
14                  viders, ancillary healthcare workers, consumers, pur-  
15                  chasers, health plans, technology vendors, research-  
16                  ers, relevant Federal agencies, and individuals with  
17                  technical expertise on health care quality, privacy  
18                  and security, and on the electronic exchange and use  
19                  of health information.

20                  “(3) CONSIDERATION.—The National Coordi-  
21                  nator shall ensure that the relevant recommenda-  
22                  tions and comments from the National Committee  
23                  on Vital and Health Statistics are considered in the  
24                  development of policies.

1       “(d) APPLICATION OF FACA.—The Federal Advisory  
2 Committee Act (5 U.S.C. App.), other than section 14 of  
3 such Act, shall apply to the HIT Policy Committee.

4       “(e) PUBLICATION.—The Secretary shall provide for  
5 publication in the Federal Register and the posting on the  
6 Internet website of the Office of the National Coordinator  
7 for Health Information Technology of all policy rec-  
8 ommendations made by the HIT Policy Committee under  
9 this section.

10   **“SEC. 3003. HIT STANDARDS COMMITTEE.**

11       “(a) ESTABLISHMENT.—There is established a com-  
12 mittee to be known as the HIT Standards Committee to  
13 recommend to the National Coordinator standards, imple-  
14 mentation specifications, and certification criteria for the  
15 electronic exchange and use of health information for pur-  
16 poses of adoption under section 3004, consistent with the  
17 implementation of the strategic plan described in section  
18 3001(c)(3) and beginning with the areas listed in section  
19 3002(b)(2)(B) in accordance with policies developed by  
20 the HIT Policy Committee.

21       “(b) DUTIES.—

22               “(1) STANDARD DEVELOPMENT.—

23                       “(A) IN GENERAL.—The HIT Standards  
24 Committee shall recommend to the National  
25 Coordinator standards, implementation speci-

1       fications, and certification criteria described in  
2       subsection (a) that have been developed, har-  
3       monized, or recognized by the HIT Standards  
4       Committee. The HIT Standards Committee  
5       shall update such recommendations and make  
6       new recommendations as appropriate, including  
7       in response to a notification sent under section  
8       3004(b)(2). Such recommendations shall be  
9       consistent with the latest recommendations  
10      made by the HIT Policy Committee.

11       “(B) PILOT TESTING OF STANDARDS AND  
12      IMPLEMENTATION SPECIFICATIONS.—In the de-  
13      velopment, harmonization, or recognition of  
14      standards and implementation specifications,  
15      the HIT Standards Committee shall, as appro-  
16      priate, provide for the testing of such standards  
17      and specifications by the National Institute for  
18      Standards and Technology under section 14201  
19      of the Health Information Technology for Eco-  
20      nomic and Clinical Health Act.

21       “(C) CONSISTENCY.—The standards, im-  
22      plementation specifications, and certification  
23      criteria recommended under this subsection  
24      shall be consistent with the standards for infor-  
25      mation transactions and data elements adopted

1           pursuant to section 1173 of the Social Security  
2           Act.

3           “(2) FORUM.—The HIT Standards Committee  
4           shall serve as a forum for the participation of a  
5           broad range of stakeholders to provide input on the  
6           development, harmonization, and recognition of  
7           standards, implementation specifications, and certifi-  
8           cation criteria necessary for the development and  
9           adoption of a nationwide health information tech-  
10          nology infrastructure that allows for the electronic  
11          use and exchange of health information.

12          “(3) SCHEDULE.—Not later than 90 days after  
13          the date of the enactment of this title, the HIT  
14          Standards Committee shall develop a schedule for  
15          the assessment of policy recommendations developed  
16          by the HIT Policy Committee under section 3002.  
17          The HIT Standards Committee shall update such  
18          schedule annually. The Secretary shall publish such  
19          schedule in the Federal Register.

20          “(4) PUBLIC INPUT.—The HIT Standards  
21          Committee shall conduct open public meetings and  
22          develop a process to allow for public comment on the  
23          schedule described in paragraph (3) and rec-  
24          ommendations described in this subsection. Under  
25          such process comments shall be submitted in a time-

1 ly manner after the date of publication of a rec-  
2 ommendation under this subsection.

3 “(c) MEMBERSHIP AND OPERATIONS.—

4 “(1) IN GENERAL.—The National Coordinator  
5 shall provide leadership in the establishment and op-  
6 erations of the HIT Standards Committee.

7 “(2) MEMBERSHIP.—The membership of the  
8 HIT Standards Committee shall at least reflect pro-  
9 viders, ancillary healthcare workers, consumers, pur-  
10 chasers, health plans, technology vendors, research-  
11 ers, relevant Federal agencies, and individuals with  
12 technical expertise on health care quality, privacy  
13 and security, and on the electronic exchange and use  
14 of health information.

15 “(3) CONSIDERATION.—The National Coordi-  
16 nator shall ensure that the relevant recommenda-  
17 tions and comments from the National Committee  
18 on Vital and Health Statistics are considered in the  
19 development of standards.

20 “(4) ASSISTANCE.—For the purposes of car-  
21 rying out this section, the Secretary may provide or  
22 ensure that financial assistance is provided by the  
23 HIT Standards Committee to defray in whole or in  
24 part any membership fees or dues charged by such  
25 Committee to those consumer advocacy groups and

1 not for profit entities that work in the public inter-  
 2 est as a part of their mission.

3 “(d) APPLICATION OF FACA.—The Federal Advisory  
 4 Committee Act (5 U.S.C. App.), other than section 14,  
 5 shall apply to the HIT Standards Committee.

6 “(e) PUBLICATION.—The Secretary shall provide for  
 7 publication in the Federal Register and the posting on the  
 8 Internet website of the Office of the National Coordinator  
 9 for Health Information Technology of all recommenda-  
 10 tions made by the HIT Standards Committee under this  
 11 section.

12 **“SEC. 3004. PROCESS FOR ADOPTION OF ENDORSED REC-**  
 13 **COMMENDATIONS; ADOPTION OF INITIAL SET**  
 14 **OF STANDARDS, IMPLEMENTATION SPECI-**  
 15 **FICATIONS, AND CERTIFICATION CRITERIA.**

16 “(a) PROCESS FOR ADOPTION OF ENDORSED REC-  
 17 OMMENDATIONS.—

18 “(1) REVIEW OF ENDORSED STANDARDS, IM-  
 19 PLEMENTATION SPECIFICATIONS, AND CERTIFI-  
 20 CATION CRITERIA.—Not later than 90 days after the  
 21 date of receipt of standards, implementation speci-  
 22 fications, or certification criteria endorsed under sec-  
 23 tion 3001(c), the Secretary, in consultation with rep-  
 24 resentatives of other relevant Federal agencies, shall  
 25 jointly review such standards, implementation speci-



1       fications, or certification criteria and shall determine  
2       whether or not to propose adoption of such stand-  
3       ards, implementation specifications, or certification  
4       criteria.

5           “(2) DETERMINATION TO ADOPT STANDARDS,  
6       IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-  
7       CATION CRITERIA.—If the Secretary determines—

8           “(A) to propose adoption of any grouping  
9       of such standards, implementation specifica-  
10      tions, or certification criteria, the Secretary  
11      shall, by regulation, determine whether or not  
12      to adopt such grouping of standards, implemen-  
13      tation specifications, or certification criteria; or

14          “(B) not to propose adoption of any group-  
15      ing of standards, implementation specifications,  
16      or certification criteria, the Secretary shall no-  
17      tify the National Coordinator and the HIT  
18      Standards Committee in writing of such deter-  
19      mination and the reasons for not proposing the  
20      adoption of such recommendation.

21          “(3) PUBLICATION.—The Secretary shall pro-  
22      vide for publication in the Federal Register of all de-  
23      terminations made by the Secretary under para-  
24      graph (1).

1       “(b) ADOPTION OF INITIAL SET OF STANDARDS, IM-  
2 PLEMENTATION SPECIFICATIONS, AND CERTIFICATION  
3 CRITERIA.—

4           “(1) IN GENERAL.—Not later than December  
5 31, 2009, the Secretary shall, through the rule-  
6 making process described in section 3003, adopt an  
7 initial set of standards, implementation specifica-  
8 tions, and certification criteria for the areas required  
9 for consideration under section 3002(b)(2)(B).

10          “(2) APPLICATION OF CURRENT STANDARDS,  
11 IMPLEMENTATION SPECIFICATIONS, AND CERTIFI-  
12 CATION CRITERIA.—The standards, implementation  
13 specifications, and certification criteria adopted be-  
14 fore the date of the enactment of this title through  
15 the process existing through the Office of the Na-  
16 tional Coordinator for Health Information Tech-  
17 nology may be applied towards meeting the require-  
18 ment of paragraph (1).

19 **“SEC. 3005. APPLICATION AND USE OF ADOPTED STAND-**  
20 **ARDS AND IMPLEMENTATION SPECIFICA-**  
21 **TIONS BY FEDERAL AGENCIES.**

22       “For requirements relating to the application and use  
23 by Federal agencies of the standards and implementation  
24 specifications adopted under section 3004, see section

1 13111 of the Health Information Technology for Eco-  
2 nomic and Clinical Health Act.

3 **“SEC. 3006. VOLUNTARY APPLICATION AND USE OF ADOPT-**  
4 **ED STANDARDS AND IMPLEMENTATION**  
5 **SPECIFICATIONS BY PRIVATE ENTITIES.**

6 “(a) IN GENERAL.—Except as provided under section  
7 13112 of the Health Information Technology for Eco-  
8 nomic and Clinical Health Act, any standard or implemen-  
9 tation specification adopted under section 3004 shall be  
10 voluntary with respect to private entities.

11 “(b) RULE OF CONSTRUCTION.—Nothing in this sub-  
12 title shall be construed to require that a private entity that  
13 enters into a contract with the Federal Government apply  
14 or use the standards and implementation specifications  
15 adopted under section 3004 with respect to activities not  
16 related to the contract.

17 **“SEC. 3007. FEDERAL HEALTH INFORMATION TECH-**  
18 **NOLOGY.**

19 “(a) IN GENERAL.—The National Coordinator shall  
20 support the development, routine updating and provision  
21 of qualified EHR technology (as defined in section 3000)  
22 consistent with subsections (b) and (c) unless the Sec-  
23 retary determines that the needs and demands of pro-  
24 viders are being substantially and adequately met through  
25 the marketplace.

1       “(b) CERTIFICATION.—In making such EHR tech-  
 2 nology publicly available, the National Coordinator shall  
 3 ensure that the qualified EHR technology described in  
 4 subsection (a) is certified under the program developed  
 5 under section 3001(c)(3) to be in compliance with applica-  
 6 ble standards adopted under section 3003(a).

7       “(c) AUTHORIZATION TO CHARGE A NOMINAL  
 8 FEE.—The National Coordinator may impose a nominal  
 9 fee for the adoption by a health care provider of the health  
 10 information technology system developed or approved  
 11 under subsection (a) and (b). Such fee shall take into ac-  
 12 count the financial circumstances of smaller providers, low  
 13 income providers, and providers located in rural or other  
 14 medically underserved areas.

15       “(d) RULE OF CONSTRUCTION.—Nothing in this sec-  
 16 tion shall be construed to require that a private or govern-  
 17 ment entity adopt or use the technology provided under  
 18 this section.

19       **“SEC. 3008. TRANSITIONS.**

20       “(a) ONCHIT.—To the extent consistent with sec-  
 21 tion 3001, all functions, personnel, assets, liabilities, and  
 22 administrative actions applicable to the National Coordi-  
 23 nator for Health Information Technology appointed under  
 24 Executive Order 13335 or the Office of such National Co-  
 25 ordinator on the date before the date of the enactment

1 of this title shall be transferred to the National Coordi-  
2 nator appointed under section 3001(a) and the Office of  
3 such National Coordinator as of the date of the enactment  
4 of this title.

5 “(b) AHIC.—

6 “(1) To the extent consistent with sections  
7 3002 and 3003, all functions, personnel, assets, and  
8 liabilities applicable to the AHIC Successor, Inc.  
9 doing business as the National eHealth Collaborative  
10 as of the day before the date of the enactment of  
11 this title shall be transferred to the HIT Policy  
12 Committee or the HIT Standards Committee, estab-  
13 lished under section 3002(a) or 3003(a), as appro-  
14 priate, as of the date of the enactment of this title.

15 “(2) In carrying out section 3003(b)(1)(A),  
16 until recommendations are made by the HIT Policy  
17 Committee, recommendations of the HIT Standards  
18 Committee shall be consistent with the most recent  
19 recommendations made by such AHIC Successor,  
20 Inc.

21 “(c) RULES OF CONSTRUCTION.—

22 “(1) ONCHIT.—Nothing in section 3001 or  
23 subsection (a) shall be construed as requiring the  
24 creation of a new entity to the extent that the Office  
25 of the National Coordinator for Health Information

1 Technology established pursuant to Executive Order  
2 13335 is consistent with the provisions of section  
3 3001.

4 “(2) AHIC.—Nothing in sections 3002 or 3003  
5 or subsection (b) shall be construed as prohibiting  
6 the AHIC Successor, Inc. doing business as the Na-  
7 tional eHealth Collaborative from modifying its char-  
8 ter, duties, membership, and any other structure or  
9 function required to be consistent with section 3002  
10 and 3003 in a manner that would permit the Sec-  
11 retary to choose to recognize such AHIC Successor,  
12 Inc. as the HIT Policy Committee or the HIT  
13 Standards Committee.

14 **“SEC. 3009. RELATION TO HIPAA PRIVACY AND SECURITY**  
15 **LAW.**

16 “(a) IN GENERAL.—With respect to the relation of  
17 this title to HIPAA privacy and security law:

18 “(1) This title may not be construed as having  
19 any effect on the authorities of the Secretary under  
20 HIPAA privacy and security law.

21 “(2) The purposes of this title include ensuring  
22 that the health information technology standards  
23 and implementation specifications adopted under  
24 section 3004 take into account the requirements of  
25 HIPAA privacy and security law.

1 “(b) DEFINITION.—For purposes of this section, the  
2 term ‘HIPAA privacy and security law’ means—

3 “(1) the provisions of part C of title XI of the  
4 Social Security Act, section 264 of the Health Insur-  
5 ance Portability and Accountability Act of 1996, and  
6 subtitle D of the Health Information Technology for  
7 Economic and Clinical Health Act; and

8 “(2) regulations under such provisions.”.

9 **SEC. 13102. TECHNICAL AMENDMENT.**

10 Section 1171(5) of the Social Security Act (42 U.S.C.  
11 1320d) is amended by striking “or C” and inserting “C,  
12 or D”.

13 **PART II—APPLICATION AND USE OF ADOPTED**  
14 **HEALTH INFORMATION TECHNOLOGY**  
15 **STANDARDS; REPORTS**

16 **SEC. 13111. COORDINATION OF FEDERAL ACTIVITIES WITH**  
17 **ADOPTED STANDARDS AND IMPLEMENTA-**  
18 **TION SPECIFICATIONS.**

19 (a) SPENDING ON HEALTH INFORMATION TECH-  
20 NOLOGY SYSTEMS.—As each agency (as defined in the Ex-  
21 ecutive Order issued on August 22, 2006, relating to pro-  
22 moting quality and efficient health care in Federal govern-  
23 ment administered or sponsored health care programs) im-  
24 plements, acquires, or upgrades health information tech-  
25 nology systems used for the direct exchange of individually

1 identifiable health information between agencies and with  
2 non-Federal entities, it shall utilize, where available,  
3 health information technology systems and products that  
4 meet standards and implementation specifications adopted  
5 under section 3004(b) of the Public Health Service Act,  
6 as added by section 13101.

7 (b) FEDERAL INFORMATION COLLECTION ACTIVITIES.—With respect to a standard or implementation  
8 TIES.—With respect to a standard or implementation  
9 specification adopted under section 3004(b) of the Public  
10 Health Service Act, as added by section 13101, the Presi-  
11 dent shall take measures to ensure that Federal activities  
12 involving the broad collection and submission of health in-  
13 formation are consistent with such standard or implemen-  
14 tation specification, respectively, within three years after  
15 the date of such adoption.

16 (c) APPLICATION OF DEFINITIONS.—The definitions  
17 contained in section 3000 of the Public Health Service  
18 Act, as added by section 13101, shall apply for purposes  
19 of this part.

20 **SEC. 13112. APPLICATION TO PRIVATE ENTITIES.**

21 Each agency (as defined in such Executive Order  
22 issued on August 22, 2006, relating to promoting quality  
23 and efficient health care in Federal government adminis-  
24 tered or sponsored health care programs) shall require in  
25 contracts or agreements with health care providers, health



1 plans, or health insurance issuers that as each provider,  
2 plan, or issuer implements, acquires, or upgrades health  
3 information technology systems, it shall utilize, where  
4 available, health information technology systems and prod-  
5 ucts that meet standards and implementation specifica-  
6 tions adopted under section 3004(b) of the Public Health  
7 Service Act, as added by section 13101.

8 **SEC. 13113. STUDY AND REPORTS.**

9 (a) REPORT ON ADOPTION OF NATIONWIDE SYS-  
10 TEM.—Not later than 2 years after the date of the enact-  
11 ment of this Act and annually thereafter, the Secretary  
12 of Health and Human Services shall submit to the appro-  
13 priate committees of jurisdiction of the House of Rep-  
14 resentatives and the Senate a report that—

15 (1) describes the specific actions that have been  
16 taken by the Federal Government and private enti-  
17 ties to facilitate the adoption of a nationwide system  
18 for the electronic use and exchange of health infor-  
19 mation;

20 (2) describes barriers to the adoption of such a  
21 nationwide system; and

22 (3) contains recommendations to achieve full  
23 implementation of such a nationwide system.

24 (b) REIMBURSEMENT INCENTIVE STUDY AND RE-  
25 PORT.—

1           (1) STUDY.—The Secretary of Health and  
2       Human Services shall carry out, or contract with a  
3       private entity to carry out, a study that examines  
4       methods to create efficient reimbursement incentives  
5       for improving health care quality in Federally quali-  
6       fied health centers, rural health clinics, and free  
7       clinics.

8           (2) REPORT.—Not later than 2 years after the  
9       date of the enactment of this Act, the Secretary of  
10      Health and Human Services shall submit to the ap-  
11      propriate committees of jurisdiction of the House of  
12      Representatives and the Senate a report on the  
13      study carried out under paragraph (1).

14      (c) AGING SERVICES TECHNOLOGY STUDY AND RE-  
15      PORT.—

16           (1) IN GENERAL.—The Secretary of Health and  
17      Human Services shall carry out, or contract with a  
18      private entity to carry out, a study of matters relat-  
19      ing to the potential use of new aging services tech-  
20      nology to assist seniors, individuals with disabilities,  
21      and their caregivers throughout the aging process.

22           (2) MATTERS TO BE STUDIED.—The study  
23      under paragraph (1) shall include—

24           (A) an evaluation of—

1 (i) methods for identifying current,  
2 emerging, and future health technology  
3 that can be used to meet the needs of sen-  
4 iors and individuals with disabilities and  
5 their caregivers across all aging services  
6 settings, as specified by the Secretary;

7 (ii) methods for fostering scientific in-  
8 novation with respect to aging services  
9 technology within the business and aca-  
10 demic communities; and

11 (iii) developments in aging services  
12 technology in other countries that may be  
13 applied in the United States; and

14 (B) identification of—

15 (i) barriers to innovation in aging  
16 services technology and devising strategies  
17 for removing such barriers; and

18 (ii) barriers to the adoption of aging  
19 services technology by health care pro-  
20 viders and consumers and devising strate-  
21 gies to removing such barriers.

22 (3) REPORT.—Not later than 24 months after  
23 the date of the enactment of this Act, the Secretary  
24 shall submit to the appropriate committees of juris-  
25 diction of the House of Representatives and of the

1 Senate a report on the study carried out under para-  
2 graph (1).

3 (4) DEFINITIONS.—For purposes of this sub-  
4 section:

5 (A) AGING SERVICES TECHNOLOGY.—The  
6 term “aging services technology” means health  
7 technology that meets the health care needs of  
8 seniors, individuals with disabilities, and the  
9 caregivers of such seniors and individuals.

10 (B) SENIOR.—The term “senior” has such  
11 meaning as specified by the Secretary.

12 **Subtitle B—Testing of Health**  
13 **Information Technology**

14 **SEC. 13201. NATIONAL INSTITUTE FOR STANDARDS AND**  
15 **TECHNOLOGY TESTING.**

16 (a) PILOT TESTING OF STANDARDS AND IMPLEMEN-  
17 TATION SPECIFICATIONS.—In coordination with the HIT  
18 Standards Committee established under section 3003 of  
19 the Public Health Service Act, as added by section 13101,  
20 with respect to the development of standards and imple-  
21 mentation specifications under such section, the Director  
22 of the National Institute for Standards and Technology  
23 shall test such standards and implementation specifica-  
24 tions, as appropriate, in order to assure the efficient im-

1 plementation and use of such standards and implementa-  
2 tion specifications.

3 (b) VOLUNTARY TESTING PROGRAM.—In coordina-  
4 tion with the HIT Standards Committee established under  
5 section 3003 of the Public Health Service Act, as added  
6 by section 13101, with respect to the development of  
7 standards and implementation specifications under such  
8 section, the Director of the National Institute of Stand-  
9 ards and Technology shall support the establishment of  
10 a conformance testing infrastructure, including the devel-  
11 opment of technical test beds. The development of this  
12 conformance testing infrastructure may include a program  
13 to accredit independent, non-Federal laboratories to per-  
14 form testing.

15 **SEC. 13202. RESEARCH AND DEVELOPMENT PROGRAMS.**

16 (a) HEALTH CARE INFORMATION ENTERPRISE INTE-  
17 GRATION RESEARCH CENTERS.—

18 (1) IN GENERAL.—The Director of the National  
19 Institute of Standards and Technology, in consulta-  
20 tion with the Director of the National Science Foun-  
21 dation and other appropriate Federal agencies, shall  
22 establish a program of assistance to institutions of  
23 higher education (or consortia thereof which may in-  
24 clude nonprofit entities and Federal Government

laboratories) to establish multidisciplinary Centers for Health Care Information Enterprise Integration.

(2) REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed, competitive basis.

(3) PURPOSE.—The purposes of the Centers described in paragraph (1) shall be—

(A) to generate innovative approaches to health care information enterprise integration by conducting cutting-edge, multidisciplinary research on the systems challenges to health care delivery; and

(B) the development and use of health information technologies and other complementary fields.

(4) RESEARCH AREAS.—Research areas may include—

(A) interfaces between human information and communications technology systems;

(B) voice-recognition systems;

(C) software that improves interoperability and connectivity among health information systems;

(D) software dependability in systems critical to health care delivery;

1 (E) measurement of the impact of informa-  
2 tion technologies on the quality and productivity  
3 of health care;

4 (F) health information enterprise manage-  
5 ment;

6 (G) health information technology security  
7 and integrity; and

8 (H) relevant health information technology  
9 to reduce medical errors.

10 (5) APPLICATIONS.—An institution of higher  
11 education (or a consortium thereof) seeking funding  
12 under this subsection shall submit an application to  
13 the Director of the National Institute of Standards  
14 and Technology at such time, in such manner, and  
15 containing such information as the Director may re-  
16 quire. The application shall include, at a minimum,  
17 a description of—

18 (A) the research projects that will be un-  
19 dertaken by the Center established pursuant to  
20 assistance under paragraph (1) and the respec-  
21 tive contributions of the participating entities;

22 (B) how the Center will promote active col-  
23 laboration among scientists and engineers from  
24 different disciplines, such as information tech-

1 nology, biologic sciences, management, social  
 2 sciences, and other appropriate disciplines;

3 (C) technology transfer activities to dem-  
 4 onstrate and diffuse the research results, tech-  
 5 nologies, and knowledge; and

6 (D) how the Center will contribute to the  
 7 education and training of researchers and other  
 8 professionals in fields relevant to health infor-  
 9 mation enterprise integration.

10 (b) NATIONAL INFORMATION TECHNOLOGY RE-  
 11 SEARCH AND DEVELOPMENT PROGRAM.—The National  
 12 High-Performance Computing Program established by  
 13 section 101 of the High-Performance Computing Act of  
 14 1991 (15 U.S.C. 5511) shall coordinate Federal research  
 15 and development programs related to the development and  
 16 deployment of health information technology, including ac-  
 17 tivities related to—

18 (1) computer infrastructure;

19 (2) data security;

20 (3) development of large-scale, distributed, reli-  
 21 able computing systems;

22 (4) wired, wireless, and hybrid high-speed net-  
 23 working;

24 (5) development of software and software-inten-  
 25 sive systems;



1 (6) human-computer interaction and informa-  
 2 tion management technologies; and

3 (7) the social and economic implications of in-  
 4 formation technology.

5 **Subtitle C—Incentives for the Use**  
 6 **of Health Information Technology**

7 **PART I—GRANTS AND LOANS FUNDING**

8 **SEC. 13301. GRANT, LOAN, AND DEMONSTRATION PRO-**  
 9 **GRAMS.**

10 Title XXX of the Public Health Service Act, as added  
 11 by section 13101, is amended by adding at the end the  
 12 following new subtitle:

13 **“Subtitle B—Incentives for the Use**  
 14 **of Health Information Technology**

15 **“SEC. 3011. IMMEDIATE FUNDING TO STRENGTHEN THE**  
 16 **HEALTH INFORMATION TECHNOLOGY INFRA-**  
 17 **STRUCTURE.**

18 “(a) IN GENERAL.—The Secretary of Health and  
 19 Human Services shall, using amounts appropriated under  
 20 section 3018, invest in the infrastructure necessary to  
 21 allow for and promote the electronic exchange and use of  
 22 health information for each individual in the United States  
 23 consistent with the goals outlined in the strategic plan de-  
 24 veloped by the National Coordinator (and, as available)  
 25 under section 3001. To the greatest extent practicable, the

1 Secretary shall ensure that any funds so appropriated  
2 shall be used for the acquisition of health information  
3 technology that meets standards and certification criteria  
4 adopted before the date of the enactment of this title until  
5 such date as the standards are adopted under section  
6 3004. The Secretary shall invest funds through the dif-  
7 ferent agencies with expertise in such goals, such as the  
8 Office of the National Coordinator for Health Information  
9 Technology, the Health Resources and Services Adminis-  
10 tration, the Agency for Healthcare Research and Quality,  
11 the Centers of Medicare & Medicaid Services, the Centers  
12 for Disease Control and Prevention, and the Indian  
13 Health Service to support the following:

14           “(1) Health information technology architecture  
15           that will support the nationwide electronic exchange  
16           and use of health information in a secure, private,  
17           and accurate manner, including connecting health  
18           information exchanges, and which may include up-  
19           dating and implementing the infrastructure nec-  
20           essary within different agencies of the Department  
21           of Health and Human Services to support the elec-  
22           tronic use and exchange of health information.

23           “(2) Development and adoption of appropriate  
24           certified electronic health records for categories of  
25           providers not eligible for support under title XVIII

1 or XIX of the Social Security Act for the adoption  
2 of such records.

3 “(3) Training on and dissemination of informa-  
4 tion on best practices to integrate health information  
5 technology, including electronic health records, into  
6 a provider’s delivery of care, consistent with best  
7 practices learned from the Health Information Tech-  
8 nology Research Center developed under section  
9 3012, including community health centers receiving  
10 assistance under section 330 of the Public Health  
11 Service Act, covered entities under section 340B of  
12 such Act, and providers participating in one or more  
13 of the programs under titles XVIII, XIX, and XXI  
14 of the Social Security Act (relating to Medicare,  
15 Medicaid, and the State Children’s Health Insurance  
16 Program).

17 “(4) Infrastructure and tools for the promotion  
18 of telemedicine, including coordination among Fed-  
19 eral agencies in the promotion of telemedicine.

20 “(5) Promotion of the interoperability of clinical  
21 data repositories or registries.

22 “(6) Promotion of technologies and best prac-  
23 tices that enhance the protection of health informa-  
24 tion by all holders of individually identifiable health  
25 information.

1           “(7) Improve and expand the use of health in-  
2           formation technology by public health departments.

3           “(8) Provide \$300,000,000 to support regional  
4           or sub-national efforts towards health information  
5           exchange.

6           “(b) COORDINATION.—The Secretary shall ensure  
7           funds under this section are used in a coordinated manner  
8           with other health information promotion activities.

9           “(c) ADDITIONAL USE OF FUNDS.—In addition to  
10          using funds as provided in subsection (a), the Secretary  
11          may use amounts appropriated under section 3018 to  
12          carry out activities that are provided for under laws in  
13          effect on the date of enactment of this title.

14       **“SEC. 3012. HEALTH INFORMATION TECHNOLOGY IMPLE-**  
15               **MENTATION ASSISTANCE.**

16          “(a) HEALTH INFORMATION TECHNOLOGY EXTEN-  
17          SION PROGRAM.—To assist health care providers to adopt,  
18          implement, and effectively use certified EHR technology  
19          that allows for the electronic exchange and use of health  
20          information, the Secretary, acting through the Office of  
21          the National Coordinator, shall establish a health informa-  
22          tion technology extension program to provide health infor-  
23          mation technology assistance services to be carried out  
24          through the Department of Health and Human Services.  
25          The National Coordinator shall consult with other Federal

1 agencies with demonstrated experience and expertise in in-  
2 formation technology services, such as the National Insti-  
3 tute of Standards and Technology, in developing and im-  
4 plementing this program.

5 “(b) HEALTH INFORMATION TECHNOLOGY RE-  
6 SEARCH CENTER.—

7 “(1) IN GENERAL.—The Secretary shall create  
8 a Health Information Technology Research Center  
9 (in this section referred to as the ‘Center’) to pro-  
10 vide technical assistance and develop or recognize  
11 best practices to support and accelerate efforts to  
12 adopt, implement, and effectively utilize health infor-  
13 mation technology that allows for the electronic ex-  
14 change and use of information in compliance with  
15 standards, implementation specifications, and certifi-  
16 cation criteria adopted under section 3004(b).

17 “(2) INPUT.—The Center shall incorporate  
18 input from—

19 “(A) other Federal agencies with dem-  
20 onstrated experience and expertise in informa-  
21 tion technology services such as the National  
22 Institute of Standards and Technology;

23 “(B) users of health information tech-  
24 nology, such as providers and their support and  
25 clerical staff and others involved in the care and

1 care coordination of patients, from the health  
2 care and health information technology indus-  
3 try; and

4 “(C) others as appropriate.

5 “(3) PURPOSES.—The purposes of the Center  
6 are to—

7 “(A) provide a forum for the exchange of  
8 knowledge and experience;

9 “(B) accelerate the transfer of lessons  
10 learned from existing public and private sector  
11 initiatives, including those currently receiving  
12 Federal financial support;

13 “(C) assemble, analyze, and widely dis-  
14 seminate evidence and experience related to the  
15 adoption, implementation, and effective use of  
16 health information technology that allows for  
17 the electronic exchange and use of information  
18 including through the regional centers described  
19 in subsection (c);

20 “(D) provide technical assistance for the  
21 establishment and evaluation of regional and  
22 local health information networks to facilitate  
23 the electronic exchange of information across  
24 health care settings and improve the quality of  
25 health care;

1           “(E) provide technical assistance for the  
2           development and dissemination of solutions to  
3           barriers to the exchange of electronic health in-  
4           formation; and

5           “(F) learn about effective strategies to  
6           adopt and utilize health information technology  
7           in medically underserved communities.

8           “(c) HEALTH INFORMATION TECHNOLOGY RE-  
9           GIONAL EXTENSION CENTERS.—

10           “(1) IN GENERAL.—The Secretary shall provide  
11           assistance for the creation and support of regional  
12           centers (in this subsection referred to as ‘regional  
13           centers’) to provide technical assistance and dissemi-  
14           nate best practices and other information learned  
15           from the Center to support and accelerate efforts to  
16           adopt, implement, and effectively utilize health infor-  
17           mation technology that allows for the electronic ex-  
18           change and use of information in compliance with  
19           standards, implementation specifications, and certifi-  
20           cation criteria adopted under section 3004. Activities  
21           conducted under this subsection shall be consistent  
22           with the strategic plan developed by the National  
23           Coordinator (and, as available) under section 3001.

24           “(2) AFFILIATION.—Regional centers shall be  
25           affiliated with any United States-based nonprofit in-

stitution or organization, or group thereof, that applies and is awarded financial assistance under this section. Individual awards shall be decided on the basis of merit.

“(3) OBJECTIVE.—The objective of the regional centers is to enhance and promote the adoption of health information technology through—

“(A) assistance with the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to healthcare providers nationwide;

“(B) broad participation of individuals from industry, universities, and State governments;

“(C) active dissemination of best practices and research on the implementation, effective use, upgrading, and ongoing maintenance of health information technology, including electronic health records, to health care providers in order to improve the quality of healthcare and protect the privacy and security of health information;

“(D) participation, to the extent practicable, in health information exchanges;



1           “(E) utilization, when appropriate, of the  
2           expertise and capability that exists in federal  
3           agencies other than the Department; and

4           “(F) integration of health information  
5           technology, including electronic health records,  
6           into the initial and ongoing training of health  
7           professionals and others in the healthcare in-  
8           dustry that would be instrumental to improving  
9           the quality of healthcare through the smooth  
10          and accurate electronic use and exchange of  
11          health information.

12          “(4) REGIONAL ASSISTANCE.—Each regional  
13          center shall aim to provide assistance and education  
14          to all providers in a region, but shall prioritize any  
15          direct assistance first to the following:

16               “(A) Public or not-for-profit hospitals or  
17               critical access hospitals.

18               “(B) Federally qualified health centers (as  
19               defined in section 1861(aa)(4) of the Social Se-  
20               curity Act).

21               “(C) Entities that are located in rural and  
22               other areas that serve uninsured, underinsured,  
23               and medically underserved individuals (regard-  
24               less of whether such area is urban or rural).

1           “(D) Individual or small group practices  
2           (or a consortium thereof) that are primarily fo-  
3           cused on primary care.

4           “(5) FINANCIAL SUPPORT.—The Secretary may  
5           provide financial support to any regional center cre-  
6           ated under this subsection for a period not to exceed  
7           four years. The Secretary may not provide more  
8           than 50 percent of the capital and annual operating  
9           and maintenance funds required to create and main-  
10          tain such a center, except in an instance of national  
11          economic conditions which would render this cost-  
12          share requirement detrimental to the program and  
13          upon notification to Congress as to the justification  
14          to waive the cost-share requirement.

15          “(6) NOTICE OF PROGRAM DESCRIPTION AND  
16          AVAILABILITY OF FUNDS.—The Secretary shall pub-  
17          lish in the Federal Register, not later than 90 days  
18          after the date of the enactment of this Act, a draft  
19          description of the program for establishing regional  
20          centers under this subsection. Such description shall  
21          include the following:

22                 “(A) A detailed explanation of the program  
23                 and the programs goals.

24                 “(B) Procedures to be followed by the ap-  
25                 plicants.

1           “(C) Criteria for determining qualified ap-  
2           plicants.

3           “(D) Maximum support levels expected to  
4           be available to centers under the program.

5           “(7) APPLICATION REVIEW.—The Secretary  
6           shall subject each application under this subsection  
7           to merit review. In making a decision whether to ap-  
8           prove such application and provide financial support,  
9           the Secretary shall consider at a minimum the mer-  
10          its of the application, including those portions of the  
11          application regarding—

12           “(A) the ability of the applicant to provide  
13           assistance under this subsection and utilization  
14           of health information technology appropriate to  
15           the needs of particular categories of health care  
16           providers;

17           “(B) the types of service to be provided to  
18           health care providers;

19           “(C) geographical diversity and extent of  
20           service area; and

21           “(D) the percentage of funding and  
22           amount of in-kind commitment from other  
23           sources.

24           “(8) BIENNIAL EVALUATION.—Each regional  
25          center which receives financial assistance under this

1 subsection shall be evaluated biennially by an evalua-  
2 tion panel appointed by the Secretary. Each evalua-  
3 tion panel shall be composed of private experts, none  
4 of whom shall be connected with the center involved,  
5 and of Federal officials. Each evaluation panel shall  
6 measure the involved center's performance against  
7 the objective specified in paragraph (3). The Sec-  
8 retary shall not continue to provide funding to a re-  
9 gional center unless its evaluation is overall positive.

10 “(9) CONTINUING SUPPORT.—After the second  
11 year of assistance under this subsection a regional  
12 center may receive additional support under this  
13 subsection if it has received positive evaluations and  
14 a finding by the Secretary that continuation of Fed-  
15 eral funding to the center was in the best interest  
16 of provision of health information technology exten-  
17 sion services.

18 **“SEC. 3013. STATE GRANTS TO PROMOTE HEALTH INFOR-**  
19 **MATION TECHNOLOGY.**

20 “(a) IN GENERAL.—The Secretary, acting through  
21 the National Coordinator, shall establish a program in ac-  
22 cordance with this section to facilitate and expand the  
23 electronic movement and use of health information among  
24 organizations according to nationally recognized stand-  
25 ards.

1       “(b) PLANNING GRANTS.—The Secretary may award  
2 a grant to a State or qualified State-designated entity (as  
3 described in subsection (d)) that submits an application  
4 to the Secretary at such time, in such manner, and con-  
5 taining such information as the Secretary may specify, for  
6 the purpose of planning activities described in subsection  
7 (b).

8       “(c) IMPLEMENTATION GRANTS.—The Secretary  
9 may award a grant to a State or qualified State designated  
10 entity that—

11           “(1) has submitted, and the Secretary has ap-  
12 proved, a plan described in subsection (c) (regardless  
13 of whether such plan was prepared using amounts  
14 awarded under paragraph (1)); and

15           “(2) submits an application at such time, in  
16 such manner, and containing such information as  
17 the Secretary may specify.

18       “(d) USE OF FUNDS.—Amounts received under a  
19 grant under subsection (a)(3) shall be used to conduct ac-  
20 tivities to facilitate and expand the electronic movement  
21 and use of health information among organizations ac-  
22 cording to nationally recognized standards through activi-  
23 ties that include—

1           “(1) enhancing broad and varied participation  
2           in the authorized and secure nationwide electronic  
3           use and exchange of health information;

4           “(2) identifying State or local resources avail-  
5           able towards a nationwide effort to promote health  
6           information technology;

7           “(3) complementing other Federal grants, pro-  
8           grams, and efforts towards the promotion of health  
9           information technology;

10          “(4) providing technical assistance for the de-  
11          velopment and dissemination of solutions to barriers  
12          to the exchange of electronic health information;

13          “(5) promoting effective strategies to adopt and  
14          utilize health information technology in medically  
15          underserved communities;

16          “(6) assisting patients in utilizing health infor-  
17          mation technology;

18          “(7) encouraging clinicians to work with Health  
19          Information Technology Regional Extension Centers  
20          as described in section 3012, to the extent they are  
21          available and valuable;

22          “(8) supporting public health agencies’ author-  
23          ized use of and access to electronic health informa-  
24          tion;

1           “(9) promoting the use of electronic health  
2 records for quality improvement including through  
3 quality measures reporting; and

4           “(10) such other activities as the Secretary may  
5 specify.

6           “(e) PLAN.—

7           “(1) IN GENERAL.—A plan described in this  
8 subsection is a plan that describes the activities to  
9 be carried out by a State or by the qualified State-  
10 designated entity within such State to facilitate and  
11 expand the electronic movement and use of health  
12 information among organizations according to na-  
13 tionally recognized standards and implementation  
14 specifications.

15           “(2) REQUIRED ELEMENTS.—A plan described  
16 in paragraph (1) shall—

17           “(A) be pursued in the public interest;

18           “(B) be consistent with the strategic plan  
19 developed by the National Coordinator (and, as  
20 available) under section 3001;

21           “(C) include a description of the ways the  
22 State or qualified State-designated entity will  
23 carry out the activities described in subsection  
24 (b); and

1                   “(D) contain such elements as the Sec-  
2                   retary may require.

3           “(f) QUALIFIED STATE-DESIGNATED ENTITY.—For  
4 purposes of this section, to be a qualified State-designated  
5 entity, with respect to a State, an entity shall—

6                   “(1) be designated by the State as eligible to  
7                   receive awards under this section;

8                   “(2) be a not-for-profit entity with broad stake-  
9                   holder representation on its governing board;

10                   “(3) demonstrate that one of its principal goals  
11                   is to use information technology to improve health  
12                   care quality and efficiency through the authorized  
13                   and secure electronic exchange and use of health in-  
14                   formation;

15                   “(4) adopt nondiscrimination and conflict of in-  
16                   terest policies that demonstrate a commitment to  
17                   open, fair, and nondiscriminatory participation by  
18                   stakeholders; and

19                   “(5) conform to such other requirements as the  
20                   Secretary may establish.

21           “(g) REQUIRED CONSULTATION.—In carrying out  
22 activities described in subsections (a)(2) and (a)(3), a  
23 State or qualified State-designated entity shall consult  
24 with and consider the recommendations of—



1           “(1) health care providers (including providers  
2           that provide services to low income and underserved  
3           populations);

4           “(2) health plans;

5           “(3) patient or consumer organizations that  
6           represent the population to be served;

7           “(4) health information technology vendors;

8           “(5) health care purchasers and employers;

9           “(6) public health agencies;

10          “(7) health professions schools, universities and  
11          colleges;

12          “(8) clinical researchers;

13          “(9) other users of health information tech-  
14          nology such as the support and clerical staff of pro-  
15          viders and others involved in the care and care co-  
16          ordination of patients; and

17          “(10) such other entities, as may be determined  
18          appropriate by the Secretary.

19          “(h) CONTINUOUS IMPROVEMENT.—The Secretary  
20          shall annually evaluate the activities conducted under this  
21          section and shall, in awarding grants under this section,  
22          implement the lessons learned from such evaluation in a  
23          manner so that awards made subsequent to each such  
24          evaluation are made in a manner that, in the determina-  
25          tion of the Secretary, will lead towards the greatest im-

1   provement in quality of care, decrease in costs, and the  
2   most effective authorized and secure electronic exchange  
3   of health information.

4       “(i) REQUIRED MATCH.—

5           “(1) IN GENERAL.—For a fiscal year (begin-  
6       ning with fiscal year 2011), the Secretary may not  
7       make a grant under subsection (a) to a State unless  
8       the State agrees to make available non-Federal con-  
9       tributions (which may include in-kind contributions)  
10      toward the costs of a grant awarded under sub-  
11      section (a)(3) in an amount equal to—

12           “(A) for fiscal year 2011, not less than \$1  
13       for each \$10 of Federal funds provided under  
14       the grant;

15           “(B) for fiscal year 2012, not less than \$1  
16       for each \$7 of Federal funds provided under  
17       the grant; and

18           “(C) for fiscal year 2013 and each subse-  
19       quent fiscal year, not less than \$1 for each \$3  
20       of Federal funds provided under the grant.

21       “(2) AUTHORITY TO REQUIRE STATE MATCH  
22       FOR FISCAL YEARS BEFORE FISCAL YEAR 2011.—For  
23       any fiscal year during the grant program under this  
24       section before fiscal year 2011, the Secretary may  
25       determine the extent to which there shall be required

1 a non-Federal contribution from a State receiving a  
 2 grant under this section.

3 **“SEC. 3014. COMPETITIVE GRANTS TO STATES AND INDIAN**  
 4 **TRIBES FOR THE DEVELOPMENT OF LOAN**  
 5 **PROGRAMS TO FACILITATE THE WIDE-**  
 6 **SPREAD ADOPTION OF CERTIFIED EHR TECH-**  
 7 **NOLOGY.**

8 “(a) IN GENERAL.—The National Coordinator may  
 9 award competitive grants to eligible entities for the estab-  
 10 lishment of programs for loans to health care providers  
 11 to conduct the activities described in subsection (e).

12 “(b) ELIGIBLE ENTITY DEFINED.—For purposes of  
 13 this subsection, the term ‘eligible entity’ means a State  
 14 or Indian tribe (as defined in the Indian Self-Determina-  
 15 tion and Education Assistance Act) that—

16 “(1) submits to the National Coordinator an  
 17 application at such time, in such manner, and con-  
 18 taining such information as the National Coordi-  
 19 nator may require;

20 “(2) submits to the National Coordinator a  
 21 strategic plan in accordance with subsection (d) and  
 22 provides to the National Coordinator assurances that  
 23 the entity will update such plan annually in accord-  
 24 ance with such subsection;

1           “(3) provides assurances to the National Coordi-  
2           nator that the entity will establish a Loan Fund  
3           in accordance with subsection (c);

4           “(4) provides assurances to the National Coordi-  
5           nator that the entity will not provide a loan from  
6           the Loan Fund to a health care provider unless the  
7           provider agrees to—

8           “(A) submit reports on quality measures  
9           adopted by the Federal Government (by not  
10          later than 90 days after the date on which such  
11          measures are adopted), to—

12           “(i) the Director of the Centers for  
13           Medicare & Medicaid Services (or his or  
14           her designee), in the case of an entity par-  
15           ticipating in the Medicare program under  
16           title XVIII of the Social Security Act or  
17           the Medicaid program under title XIX of  
18           such Act; or

19           “(ii) the Secretary in the case of other  
20           entities;

21           “(B) demonstrate to the satisfaction of the  
22           Secretary (through criteria established by the  
23           Secretary) that any certified EHR technology  
24           purchased, improved, or otherwise financially  
25           supported under a loan under this section is

1           used to exchange health information in a man-  
 2           ner that, in accordance with law and standards  
 3           (as adopted under section 3005) applicable to  
 4           the exchange of information, improves the qual-  
 5           ity of health care, such as promoting care co-  
 6           ordination;

7           “(C) comply with such other requirements  
 8           as the entity or the Secretary may require;

9           “(D) include a plan on how healthcare pro-  
 10          viders involved intend to maintain and support  
 11          the certified EHR technology over time; and

12          “(E) include a plan on how the healthcare  
 13          providers involved intend to maintain and sup-  
 14          port the certified EHR technology that would  
 15          be purchased with such loan, including the type  
 16          of resources expected to be involved and any  
 17          such other information as the State or Indian  
 18          tribe, respectively, may require; and

19          “(5) agrees to provide matching funds in ac-  
 20          cordance with subsection (i).

21          “(c) ESTABLISHMENT OF FUND.—For purposes of  
 22          subsection (b)(3), an eligible entity shall establish a cer-  
 23          tified EHR technology loan fund (referred to in this sub-  
 24          section as a ‘Loan Fund’) and comply with the other re-  
 25          quirements contained in this section. A grant to an eligible

1 entity under this section shall be deposited in the Loan  
 2 Fund established by the eligible entity. No funds author-  
 3 ized by other provisions of this title to be used for other  
 4 purposes specified in this title shall be deposited in any  
 5 Loan Fund.

6 “(d) STRATEGIC PLAN.—

7 “(1) IN GENERAL.—For purposes of subsection  
 8 (b)(2), a strategic plan of an eligible entity under  
 9 this subsection shall identify the intended uses of  
 10 amounts available to the Loan Fund of such entity.

11 “(2) CONTENTS.—A strategic plan under para-  
 12 graph (1), with respect to a Loan Fund of an eligi-  
 13 ble entity, shall include for a year the following:

14 “(A) A list of the projects to be assisted  
 15 through the Loan Fund during such year.

16 “(B) A description of the criteria and  
 17 methods established for the distribution of  
 18 funds from the Loan Fund during the year.

19 “(C) A description of the financial status  
 20 of the Loan Fund as of the date of submission  
 21 of the plan.

22 “(D) The short-term and long-term goals  
 23 of the Loan Fund.

24 “(e) USE OF FUNDS.—Amounts deposited in a Loan  
 25 Fund, including loan repayments and interest earned on

1 such amounts, shall be used only for awarding loans or  
2 loan guarantees, making reimbursements described in sub-  
3 section (g)(4)(A), or as a source of reserve and security  
4 for leveraged loans, the proceeds of which are deposited  
5 in the Loan Fund established under subsection (a). Loans  
6 under this section may be used by a health care provider  
7 to—

8           “(1) facilitate the purchase of certified EHR  
9           technology;

10           “(2) enhance the utilization of certified EHR  
11           technology (which may include costs associated with  
12           upgrading health information technology so that it  
13           meets criteria necessary to be a certified EHR tech-  
14           nology);

15           “(3) train personnel in the use of such tech-  
16           nology; or

17           “(4) improve the secure electronic exchange of  
18           health information.

19           “(f) TYPES OF ASSISTANCE.—Except as otherwise  
20           limited by applicable State law, amounts deposited into a  
21           Loan Fund under this subsection may only be used for  
22           the following:

23           “(1) To award loans that comply with the fol-  
24           lowing:

1           “(A) The interest rate for each loan shall  
2           not exceed the market interest rate.

3           “(B) The principal and interest payments  
4           on each loan shall commence not later than 1  
5           year after the date the loan was awarded, and  
6           each loan shall be fully amortized not later than  
7           10 years after the date of the loan.

8           “(C) The Loan Fund shall be credited with  
9           all payments of principal and interest on each  
10          loan awarded from the Loan Fund.

11          “(2) To guarantee, or purchase insurance for,  
12          a local obligation (all of the proceeds of which fi-  
13          nance a project eligible for assistance under this  
14          subsection) if the guarantee or purchase would im-  
15          prove credit market access or reduce the interest  
16          rate applicable to the obligation involved.

17          “(3) As a source of revenue or security for the  
18          payment of principal and interest on revenue or gen-  
19          eral obligation bonds issued by the eligible entity if  
20          the proceeds of the sale of the bonds will be depos-  
21          ited into the Loan Fund.

22          “(4) To earn interest on the amounts deposited  
23          into the Loan Fund.

24          “(5) To make reimbursements described in sub-  
25          section (g)(4)(A).



1 “(g) ADMINISTRATION OF LOAN FUNDS.—

2 “(1) COMBINED FINANCIAL ADMINISTRATION.—

3 An eligible entity may (as a convenience and to  
4 avoid unnecessary administrative costs) combine, in  
5 accordance with applicable State law, the financial  
6 administration of a Loan Fund established under  
7 this subsection with the financial administration of  
8 any other revolving fund established by the entity if  
9 otherwise not prohibited by the law under which the  
10 Loan Fund was established.

11 “(2) COST OF ADMINISTERING FUND.—Each el-  
12 igible entity may annually use not to exceed 4 per-  
13 cent of the funds provided to the entity under a  
14 grant under this subsection to pay the reasonable  
15 costs of the administration of the programs under  
16 this section, including the recovery of reasonable  
17 costs expended to establish a Loan Fund which are  
18 incurred after the date of the enactment of this title.

19 “(3) GUIDANCE AND REGULATIONS.—The Na-  
20 tional Coordinator shall publish guidance and pro-  
21 mulgate regulations as may be necessary to carry  
22 out the provisions of this section, including—

23 “(A) provisions to ensure that each eligible  
24 entity commits and expends funds allotted to  
25 the entity under this subsection as efficiently as

1 possible in accordance with this title and appli-  
2 cable State laws; and

3 “(B) guidance to prevent waste, fraud, and  
4 abuse.

5 “(4) PRIVATE SECTOR CONTRIBUTIONS.—

6 “(A) IN GENERAL.—A Loan Fund estab-  
7 lished under this subsection may accept con-  
8 tributions from private sector entities, except  
9 that such entities may not specify the recipient  
10 or recipients of any loan issued under this sub-  
11 section. An eligible entity may agree to reim-  
12 burse a private sector entity for any contribu-  
13 tion made under this subparagraph, except that  
14 the amount of such reimbursement may not be  
15 greater than the principal amount of the con-  
16 tribution made.

17 “(B) AVAILABILITY OF INFORMATION.—  
18 An eligible entity shall make publicly available  
19 the identity of, and amount contributed by, any  
20 private sector entity under subparagraph (A)  
21 and may issue letters of commendation or make  
22 other awards (that have no financial value) to  
23 any such entity.

24 “(h) MATCHING REQUIREMENTS.—

1           “(1) IN GENERAL.—The National Coordinator  
2           may not make a grant under subsection (a) to an el-  
3           igible entity unless the entity agrees to make avail-  
4           able (directly or through donations from public or  
5           private entities) non-Federal contributions in cash to  
6           the costs of carrying out the activities for which the  
7           grant is awarded in an amount equal to not less  
8           than \$1 for each \$5 of Federal funds provided under  
9           the grant.

10           “(2) DETERMINATION OF AMOUNT OF NON-  
11           FEDERAL CONTRIBUTION.—In determining the  
12           amount of non-Federal contributions that an eligible  
13           entity has provided pursuant to subparagraph (A),  
14           the National Coordinator may not include any  
15           amounts provided to the entity by the Federal Gov-  
16           ernment.

17           “(i) EFFECTIVE DATE.—The Secretary may not  
18           make an award under this section prior to January 1,  
19           2010.

20           **“SEC. 3015. DEMONSTRATION PROGRAM TO INTEGRATE IN-**  
21                           **FORMATION TECHNOLOGY INTO CLINICAL**  
22                           **EDUCATION.**

23           “(a) IN GENERAL.—The Secretary may award grants  
24           under this section to carry out demonstration projects to  
25           develop academic curricula integrating certified EHR

1 technology in the clinical education of health professionals.  
2 Such awards shall be made on a competitive basis and  
3 pursuant to peer review.

4 “(b) ELIGIBILITY.—To be eligible to receive a grant  
5 under subsection (a), an entity shall—

6 “(1) submit to the Secretary an application at  
7 such time, in such manner, and containing such in-  
8 formation as the Secretary may require;

9 “(2) submit to the Secretary a strategic plan  
10 for integrating certified EHR technology in the clin-  
11 ical education of health professionals to reduce med-  
12 ical errors, increase access to prevention, reduce  
13 chronic diseases, and enhance health care quality;

14 “(3) be—

15 “(A) a school of medicine, osteopathic  
16 medicine, dentistry, or pharmacy, a graduate  
17 program in behavioral or mental health, or any  
18 other graduate health professions school;

19 “(B) a graduate school of nursing or phy-  
20 sician assistant studies;

21 “(C) a consortium of two or more schools  
22 described in subparagraph (A) or (B); or

23 “(D) an institution with a graduate med-  
24 ical education program in medicine, osteopathic

1 medicine, dentistry, pharmacy, nursing, or phy-  
2 sician assistance studies.

3 “(4) provide for the collection of data regarding  
4 the effectiveness of the demonstration project to be  
5 funded under the grant in improving the safety of  
6 patients, the efficiency of health care delivery, and  
7 in increasing the likelihood that graduates of the  
8 grantee will adopt and incorporate certified EHR  
9 technology, in the delivery of health care services;  
10 and

11 “(5) provide matching funds in accordance with  
12 subsection (d).

13 “(c) USE OF FUNDS.—

14 “(1) IN GENERAL.—With respect to a grant  
15 under subsection (a), an eligible entity shall—

16 “(A) use grant funds in collaboration with  
17 2 or more disciplines; and

18 “(B) use grant funds to integrate certified  
19 EHR technology into community-based clinical  
20 education.

21 “(2) LIMITATION.—An eligible entity shall not  
22 use amounts received under a grant under sub-  
23 section (a) to purchase hardware, software, or serv-  
24 ices.

1       “(d) FINANCIAL SUPPORT.—The Secretary may not  
2 provide more than 50 percent of the costs of any activity  
3 for which assistance is provided under subsection (a), ex-  
4 cept in an instance of national economic conditions which  
5 would render the cost-share requirement under this sub-  
6 section detrimental to the program and upon notification  
7 to Congress as to the justification to waive the cost-share  
8 requirement.

9       “(e) EVALUATION.—The Secretary shall take such  
10 action as may be necessary to evaluate the projects funded  
11 under this section and publish, make available, and dis-  
12 seminate the results of such evaluations on as wide a basis  
13 as is practicable.

14       “(f) REPORTS.—Not later than 1 year after the date  
15 of enactment of this title, and annually thereafter, the Sec-  
16 retary shall submit to the Committee on Health, Edu-  
17 cation, Labor, and Pensions and the Committee on Fi-  
18 nance of the Senate, and the Committee on Energy and  
19 Commerce of the House of Representatives a report  
20 that—

21               “(1) describes the specific projects established  
22       under this section; and

23               “(2) contains recommendations for Congress  
24       based on the evaluation conducted under subsection  
25       (e).

1   **“SEC. 3016. INFORMATION TECHNOLOGY PROFESSIONALS**  
2                   **ON HEALTH CARE.**

3           “(a) IN GENERAL.—The Secretary, in consultation  
4 with the Director of the National Science Foundation,  
5 shall provide assistance to institutions of higher education  
6 (or consortia thereof) to establish or expand medical  
7 health informatics education programs, including certifi-  
8 cation, undergraduate, and masters degree programs, for  
9 both health care and information technology students to  
10 ensure the rapid and effective utilization and development  
11 of health information technologies (in the United States  
12 health care infrastructure).

13          “(b) ACTIVITIES.—Activities for which assistance  
14 may be provided under subsection (a) may include the fol-  
15 lowing:

16               “(1) Developing and revising curricula in med-  
17 ical health informatics and related disciplines.

18               “(2) Recruiting and retaining students to the  
19 program involved.

20               “(3) Acquiring equipment necessary for student  
21 instruction in these programs, including the installa-  
22 tion of testbed networks for student use.

23               “(4) Establishing or enhancing bridge programs  
24 in the health informatics fields between community  
25 colleges and universities.

1       “(c) PRIORITY.—In providing assistance under sub-  
2 section (a), the Secretary shall give preference to the fol-  
3 lowing:

4               “(1) Existing education and training programs.

5               “(2) Programs designed to be completed in less  
6 than six months.

7       “(d) FINANCIAL SUPPORT.—The Secretary may not  
8 provide more than 50 percent of the costs of any activity  
9 for which assistance is provided under subsection (a), ex-  
10 cept in an instance of national economic conditions which  
11 would render the cost-share requirement under this sub-  
12 section detrimental to the program and upon notification  
13 to Congress as to the justification to waive the cost-share  
14 requirement.

15 **“SEC. 3017. GENERAL GRANT AND LOAN PROVISIONS.**

16       “(a) REPORTS.—The Secretary may require that an  
17 entity receiving assistance under this title shall submit to  
18 the Secretary, not later than the date that is 1 year after  
19 the date of receipt of such assistance, a report that in-  
20 cludes—

21               “(1) an analysis of the effectiveness of such ac-  
22 tivities for which the entity receives such assistance,  
23 as compared to the goals for such activities; and

24               “(2) an analysis of the impact of the project on  
25 healthcare quality and safety.



1       “(b) REQUIREMENT TO IMPROVE QUALITY OF CARE  
 2 AND DECREASE IN COSTS.—The National Coordinator  
 3 shall annually evaluate the activities conducted under this  
 4 title and shall, in awarding grants, implement the lessons  
 5 learned from such evaluation in a manner so that awards  
 6 made subsequent to each such evaluation are made in a  
 7 manner that, in the determination of the National Coordi-  
 8 nator, will result in the greatest improvement in the qual-  
 9 ity and efficiency of health care.

10 **“SEC. 3018. AUTHORIZATION FOR APPROPRIATIONS.**

11       “For the purposes of carrying out this subtitle, there  
 12 is authorized to be appropriated such sums as may be nec-  
 13 essary for each of the fiscal years 2009 through 2013.  
 14 Amounts so appropriated shall remain available until ex-  
 15 pended.”.

16 **Subtitle D—Privacy**

17 **SEC. 13400. DEFINITIONS.**

18       In this subtitle, except as specified otherwise:

19           (1) BREACH.—The term “breach” means the  
 20 unauthorized acquisition, access, use, or disclosure  
 21 of protected health information which compromises  
 22 the security, privacy, or integrity of protected health  
 23 information maintained by or on behalf of a person.  
 24 Such term does not include any unintentional acqui-  
 25 sition, access, use, or disclosure of such information

1 by an employee or agent of the covered entity or  
2 business associate involved if such acquisition, ac-  
3 cess, use, or disclosure, respectively, was made in  
4 good faith and within the course and scope of the  
5 employment or other contractual relationship of such  
6 employee or agent, respectively, with the covered en-  
7 tity or business associate and if such information is  
8 not further acquired, accessed, used, or disclosed by  
9 such employee or agent.

10 (2) BUSINESS ASSOCIATE.—The term “business  
11 associate” has the meaning given such term in sec-  
12 tion 160.103 of title 45, Code of Federal Regula-  
13 tions.

14 (3) COVERED ENTITY.—The term “covered en-  
15 tity” has the meaning given such term in section  
16 160.103 of title 45, Code of Federal Regulations.

17 (4) DISCLOSE.—The terms “disclose” and “dis-  
18 closure” have the meaning given the term “disclo-  
19 sure” in section 160.103 of title 45, Code of Federal  
20 Regulations.

21 (5) ELECTRONIC HEALTH RECORD.—The term  
22 “electronic health record” means an electronic  
23 record of health-related information on an individual  
24 that is created, gathered, managed, and consulted by  
25 authorized health care clinicians and staff.

1           (6) HEALTH CARE OPERATIONS.—The term  
2           “health care operation” has the meaning given such  
3           term in section 164.501 of title 45, Code of Federal  
4           Regulations.

5           (7) HEALTH CARE PROVIDER.—The term  
6           “health care provider” has the meaning given such  
7           term in section 160.103 of title 45, Code of Federal  
8           Regulations.

9           (8) HEALTH PLAN.—The term “health plan”  
10          has the meaning given such term in section 1171(5)  
11          of the Social Security Act.

12          (9) NATIONAL COORDINATOR.—The term “Na-  
13          tional Coordinator” means the head of the Office of  
14          the National Coordinator for Health Information  
15          Technology established under section 3001(a) of the  
16          Public Health Service Act, as added by section  
17          13101.

18          (10) PAYMENT.—The term “payment” has the  
19          meaning given such term in section 164.501 of title  
20          45, Code of Federal Regulations.

21          (11) PERSONAL HEALTH RECORD.—The term  
22          “personal health record” means an electronic record  
23          of individually identifiable health information on an  
24          individual that can be drawn from multiple sources

1 and that is managed, shared, and controlled by or  
2 for the individual.

3 (12) PROTECTED HEALTH INFORMATION.—The  
4 term “protected health information” has the mean-  
5 ing given such term in section 160.103 of title 45,  
6 Code of Federal Regulations.

7 (13) SECRETARY.—The term “Secretary”  
8 means the Secretary of Health and Human Services.

9 (14) SECURITY.—The term “security” has the  
10 meaning given such term in section 164.304 of title  
11 45, Code of Federal Regulations.

12 (15) STATE.—The term “State” means each of  
13 the several States, the District of Columbia, Puerto  
14 Rico, the Virgin Islands, Guam, American Samoa,  
15 and the Northern Mariana Islands.

16 (16) TREATMENT.—The term “treatment” has  
17 the meaning given such term in section 164.501 of  
18 title 45, Code of Federal Regulations.

19 (17) USE.—The term “use” has the meaning  
20 given such term in section 160.103 of title 45, Code  
21 of Federal Regulations.

22 (18) VENDOR OF PERSONAL HEALTH  
23 RECORDS.—The term “vendor of personal health  
24 records” means an entity, other than a covered enti-

1       ty (as defined in paragraph (3)), that offers or  
 2       maintains a personal health record.

3       **PART I—IMPROVED PRIVACY PROVISIONS AND**  
 4               **SECURITY PROVISIONS**

5       **SEC. 13401. APPLICATION OF SECURITY PROVISIONS AND**  
 6               **PENALTIES TO BUSINESS ASSOCIATES OF**  
 7               **COVERED ENTITIES; ANNUAL GUIDANCE ON**  
 8               **SECURITY PROVISIONS.**

9       (a) APPLICATION OF SECURITY PROVISIONS.—Sec-  
 10       tions 164.308, 164.310, 164.312, and 164.316 of title 45,  
 11       Code of Federal Regulations, shall apply to a business as-  
 12       sociate of a covered entity in the same manner that such  
 13       sections apply to the covered entity. The additional re-  
 14       quirements of this title that relate to security and that  
 15       are made applicable with respect to covered entities shall  
 16       also be applicable to such a business associate and shall  
 17       be incorporated into the business associate agreement be-  
 18       tween the business associate and the covered entity.

19       (b) APPLICATION OF CIVIL AND CRIMINAL PEN-  
 20       ALTIES.—In the case of a business associate that violates  
 21       any security provision specified in subsection (a), sections  
 22       1176 and 1177 of the Social Security Act (42 U.S.C.  
 23       1320d-5, 1320d-6) shall apply to the business associate  
 24       with respect to such violation in the same manner such

1 sections apply to a covered entity that violates such secu-  
2 rity provision.

3 (c) ANNUAL GUIDANCE.—For the first year begin-  
4 ning after the date of the enactment of this Act and annu-  
5 ally thereafter, the Secretary of Health and Human Serv-  
6 ices shall, in consultation with industry stakeholders, an-  
7 nually issue guidance on the most effective and appro-  
8 priate technical safeguards for use in carrying out the sec-  
9 tions referred to in subsection (a) and the security stand-  
10 ards in subpart C of part 164 of title 45, Code of Federal  
11 Regulations, as such provisions are in effect as of the date  
12 before the enactment of this Act.

13 **SEC. 13402. NOTIFICATION IN THE CASE OF BREACH.**

14 (a) IN GENERAL.—A covered entity that accesses,  
15 maintains, retains, modifies, records, stores, destroys, or  
16 otherwise holds, uses, or discloses unsecured protected  
17 health information (as defined in subsection (h)(1)) shall,  
18 in the case of a breach of such information that is discov-  
19 ered by the covered entity, notify each individual whose  
20 unsecured protected health information has been, or is  
21 reasonably believed by the covered entity to have been,  
22 accessed, acquired, or disclosed as a result of such breach.

23 (b) NOTIFICATION OF COVERED ENTITY BY BUSI-  
24 NESS ASSOCIATE.—A business associate of a covered enti-  
25 ty that accesses, maintains, retains, modifies, records,

1 stores, destroys, or otherwise holds, uses, or discloses un-  
2 secured protected health information shall, following the  
3 discovery of a breach of such information, notify the cov-  
4 ered entity of such breach. Such notice shall include the  
5 identification of each individual whose unsecured protected  
6 health information has been, or is reasonably believed by  
7 the business associate to have been, accessed, acquired,  
8 or disclosed during such breach.

9 (c) BREACHES TREATED AS DISCOVERED.—For pur-  
10 poses of this section, a breach shall be treated as discov-  
11 ered by a covered entity or by a business associate as of  
12 the first day on which such breach is known to such entity  
13 or associate, respectively, (including any person, other  
14 than the individual committing the breach, that is an em-  
15 ployee, officer, or other agent of such entity or associate,  
16 respectively) or should reasonably have been known to  
17 such entity or associate (or person) to have occurred.

18 (d) TIMELINESS OF NOTIFICATION.—

19 (1) IN GENERAL.—Subject to subsection (g), all  
20 notifications required under this section shall be  
21 made without unreasonable delay and in no case  
22 later than 60 calendar days after the discovery of a  
23 breach by the covered entity involved (or business  
24 associate involved in the case of a notification re-  
25 quired under subsection (b)).

1           (2) BURDEN OF PROOF.—The covered entity in-  
2       involved (or business associate involved in the case of  
3       a notification required under subsection (b)), shall  
4       have the burden of demonstrating that all notifica-  
5       tions were made as required under this part, includ-  
6       ing evidence demonstrating the necessity of any  
7       delay.

8       (e) METHODS OF NOTICE.—

9           (1) INDIVIDUAL NOTICE.—Notice required  
10      under this section to be provided to an individual,  
11      with respect to a breach, shall be provided promptly  
12      and in the following form:

13           (A) Written notification by first-class mail  
14      to the individual (or the next of kin of the indi-  
15      vidual if the individual is deceased) at the last  
16      known address of the individual or the next of  
17      kin, respectively, or, if specified as a preference  
18      by the individual, by electronic mail. The notifi-  
19      cation may be provided in one or more mailings  
20      as information is available.

21           (B) In the case in which there is insuffi-  
22      cient, or out-of-date contact information (in-  
23      cluding a phone number, email address, or any  
24      other form of appropriate communication) that  
25      precludes direct written (or, if specified by the



1 individual under subparagraph (A), electronic)  
2 notification to the individual, a substitute form  
3 of notice shall be provided, including, in the  
4 case that there are 10 or more individuals for  
5 which there is insufficient or out-of-date contact  
6 information, a conspicuous posting for a period  
7 determined by the Secretary on the home page  
8 of the Web site of the covered entity involved or  
9 notice in major print or broadcast media, in-  
10 cluding major media in geographic areas where  
11 the individuals affected by the breach likely re-  
12 side. Such a notice in media or web posting will  
13 include a toll-free phone number where an indi-  
14 vidual can learn whether or not the individual's  
15 unsecured protected health information is pos-  
16 sibly included in the breach.

17 (C) In any case deemed by the covered en-  
18 tity involved to require urgency because of pos-  
19 sible imminent misuse of unsecured protected  
20 health information, the covered entity, in addi-  
21 tion to notice provided under subparagraph (A),  
22 may provide information to individuals by tele-  
23 phone or other means, as appropriate.

24 (2) MEDIA NOTICE.—Notice shall be provided  
25 to prominent media outlets serving a State or juris-

1       diction, following the discovery of a breach described  
2       in subsection (a), if the unsecured protected health  
3       information of more than 500 residents of such  
4       State or jurisdiction is, or is reasonably believed to  
5       have been, accessed, acquired, or disclosed during  
6       such breach.

7           (3) NOTICE TO SECRETARY.—Notice shall be  
8       provided to the Secretary by covered entities of un-  
9       secured protected health information that has been  
10      acquired or disclosed in a breach. If the breach was  
11      with respect to 500 or more individuals than such  
12      notice must be provided immediately. If the breach  
13      was with respect to less than 500 individuals, the  
14      covered entity may maintain a log of any such  
15      breach occurring and annually submit such a log to  
16      the Secretary documenting such breaches occurring  
17      during the year involved.

18          (4) POSTING ON HHS PUBLIC WEBSITE.—The  
19      Secretary shall make available to the public on the  
20      Internet website of the Department of Health and  
21      Human Services a list that identifies each covered  
22      entity involved in a breach described in subsection  
23      (a) in which the unsecured protected health informa-  
24      tion of more than 500 individuals is acquired or dis-  
25      closed.

1 (f) CONTENT OF NOTIFICATION.—Regardless of the  
2 method by which notice is provided to individuals under  
3 this section, notice of a breach shall include, to the extent  
4 possible, the following:

5 (1) A brief description of what happened, in-  
6 cluding the date of the breach and the date of the  
7 discovery of the breach, if known.

8 (2) A description of the types of unsecured pro-  
9 tected health information that were involved in the  
10 breach (such as full name, Social Security number,  
11 date of birth, home address, account number, or dis-  
12 ability code).

13 (3) The steps individuals should take to protect  
14 themselves from potential harm resulting from the  
15 breach.

16 (4) A brief description of what the covered enti-  
17 ty involved is doing to investigate the breach, to  
18 mitigate losses, and to protect against any further  
19 breaches.

20 (5) Contact procedures for individuals to ask  
21 questions or learn additional information, which  
22 shall include a toll-free telephone number, an e-mail  
23 address, Web site, or postal address.

24 (g) DELAY OF NOTIFICATION AUTHORIZED FOR LAW  
25 ENFORCEMENT PURPOSES.—If a law enforcement official

1 determines that a notification, notice, or posting required  
2 under this section would impede a criminal investigation  
3 or cause damage to national security, such notification,  
4 notice, or posting shall be delayed in the same manner  
5 as provided under section 164.528(a)(2) of title 45, Code  
6 of Federal Regulations, in the case of a disclosure covered  
7 under such section.

8 (h) UNSECURED PROTECTED HEALTH INFORMA-  
9 TION.—

10 (1) DEFINITION.—

11 (A) IN GENERAL.—Subject to subpara-  
12 graph (B), for purposes of this section, the  
13 term “unsecured protected health information”  
14 means protected health information that is not  
15 secured through the use of a technology or  
16 methodology specified by the Secretary in the  
17 guidance issued under paragraph (2).

18 (B) EXCEPTION IN CASE TIMELY GUID-  
19 ANCE NOT ISSUED.—In the case that the Sec-  
20 retary does not issue guidance under paragraph  
21 (2) by the date specified in such paragraph, for  
22 purposes of this section, the term “unsecured  
23 protected health information” shall mean pro-  
24 tected health information that is not secured by  
25 a technology standard that renders protected

1 health information unusable, unreadable, or in-  
2 decipherable to unauthorized individuals and is  
3 developed or endorsed by a standards devel-  
4 oping organization that is accredited by the  
5 American National Standards Institute.

6 (2) GUIDANCE.—For purposes of paragraph (1)  
7 and section 13407(f)(3), not later than the date that  
8 is 60 days after the date of the enactment of this  
9 Act, the Secretary shall, after consultation with  
10 stakeholders, issue (and annually update) guidance  
11 specifying the technologies and methodologies that  
12 render protected health information unusable,  
13 unreadable, or indecipherable to unauthorized indi-  
14 viduals.

15 (i) REPORT TO CONGRESS ON BREACHES.—

16 (1) IN GENERAL.—Not later than 12 months  
17 after the date of the enactment of this Act and an-  
18 nually thereafter, the Secretary shall prepare and  
19 submit to the Committee on Finance and the Com-  
20 mittee on Health, Education, Labor, and Pensions  
21 of the Senate and the Committee on Ways and  
22 Means and the Committee on Energy and Commerce  
23 of the House of Representatives a report containing  
24 the information described in paragraph (2) regard-

1       ing breaches for which notice was provided to the  
2       Secretary under subsection (e)(3).

3           (2) INFORMATION.—The information described  
4       in this paragraph regarding breaches specified in  
5       paragraph (1) shall include—

6                   (A) the number and nature of such  
7       breaches; and

8                   (B) actions taken in response to such  
9       breaches.

10       (j) REGULATIONS; EFFECTIVE DATE.—To carry out  
11 this section, the Secretary of Health and Human Services  
12 shall promulgate interim final regulations by not later  
13 than the date that is 180 days after the date of the enact-  
14 ment of this title. The provisions of this section shall apply  
15 to breaches that are discovered on or after the date that  
16 is 30 days after the date of publication of such interim  
17 final regulations.

18 **SEC. 13403. EDUCATION ON HEALTH INFORMATION PRI-**  
19 **VACY.**

20       (a) REGIONAL OFFICE PRIVACY ADVISORS.—Not  
21 later than 6 months after the date of the enactment of  
22 this Act, the Secretary shall designate an individual in  
23 each regional office of the Department of Health and  
24 Human Services to offer guidance and education to cov-  
25 ered entities, business associates, and individuals on their

1 rights and responsibilities related to Federal privacy and  
2 security requirements for protected health information.

3 (b) EDUCATION INITIATIVE ON USES OF HEALTH IN-  
4 FORMATION.—Not later than 12 months after the date of  
5 the enactment of this Act, the Office for Civil Rights with-  
6 in the Department of Health and Human Services shall  
7 develop and maintain a multi-faceted national education  
8 initiative to enhance public transparency regarding the  
9 uses of protected health information, including programs  
10 to educate individuals about the potential uses of their  
11 protected health information, the effects of such uses, and  
12 the rights of individuals with respect to such uses. Such  
13 programs shall be conducted in a variety of languages and  
14 present information in a clear and understandable man-  
15 ner.

16 **SEC. 13404. APPLICATION OF PRIVACY PROVISIONS AND**  
17 **PENALTIES TO BUSINESS ASSOCIATES OF**  
18 **COVERED ENTITIES.**

19 (a) APPLICATION OF CONTRACT REQUIREMENTS.—  
20 In the case of a business associate of a covered entity that  
21 obtains or creates protected health information pursuant  
22 to a written contract (or other written arrangement) de-  
23 scribed in section 164.502(e)(2) of title 45, Code of Fed-  
24 eral Regulations, with such covered entity, the business  
25 associate may use and disclose such protected health infor-

1 mation only if such use or disclosure, respectively, is in  
 2 compliance with each applicable requirement of section  
 3 164.504(e) of such title. The additional requirements of  
 4 this subtitle that relate to privacy and that are made ap-  
 5 plicable with respect to covered entities shall also be appli-  
 6 cable to such a business associate and shall be incor-  
 7 porated into the business associate agreement between the  
 8 business associate and the covered entity.

9 (b) APPLICATION OF KNOWLEDGE ELEMENTS ASSO-  
 10 CIATED WITH CONTRACTS.—Section 164.504(e)(1)(ii) of  
 11 title 45, Code of Federal Regulations, shall apply to a  
 12 business associate described in subsection (a), with respect  
 13 to compliance with such subsection, in the same manner  
 14 that such section applies to a covered entity, with respect  
 15 to compliance with the standards in sections 164.502(e)  
 16 and 164.504(e) of such title, except that in applying such  
 17 section 164.504(e)(1)(ii) each reference to the business as-  
 18 sociate, with respect to a contract, shall be treated as a  
 19 reference to the covered entity involved in such contract.

20 (c) APPLICATION OF CIVIL AND CRIMINAL PEN-  
 21 ALTIES.—In the case of a business associate that violates  
 22 any provision of subsection (a) or (b), the provisions of  
 23 sections 1176 and 1177 of the Social Security Act (42  
 24 U.S.C. 1320d-5, 1320d-6) shall apply to the business as-  
 25 sociate with respect to such violation in the same manner



1 as such provisions apply to a person who violates a provi-  
 2 sion of part C of title XI of such Act.

3 **SEC. 13405. RESTRICTIONS ON CERTAIN DISCLOSURES AND**  
 4 **SALES OF HEALTH INFORMATION; ACCOUNT-**  
 5 **ING OF CERTAIN PROTECTED HEALTH IN-**  
 6 **FORMATION DISCLOSURES; ACCESS TO CER-**  
 7 **TAIN INFORMATION IN ELECTRONIC FOR-**  
 8 **MAT.**

9 (a) REQUESTED RESTRICTIONS ON CERTAIN DIS-  
 10 CLOSURES OF HEALTH INFORMATION.—In the case that  
 11 an individual requests under paragraph (a)(1)(i)(A) of  
 12 section 164.522 of title 45, Code of Federal Regulations,  
 13 that a covered entity restrict the disclosure of the pro-  
 14 tected health information of the individual, notwith-  
 15 standing paragraph (a)(1)(ii) of such section, the covered  
 16 entity must comply with the requested restriction if—

17 (1) except as otherwise required by law, the dis-  
 18 closure is to a health plan for purposes of carrying  
 19 out payment or health care operations (and is not  
 20 for purposes of carrying out treatment); and

21 (2) the protected health information pertains  
 22 solely to a health care item or service for which the  
 23 health care provider involved has been paid out of  
 24 pocket in full.

1 (b) DISCLOSURES REQUIRED TO BE LIMITED TO  
2 THE LIMITED DATA SET OR THE MINIMUM NEC-  
3 ESSARY.—

4 (1) IN GENERAL.—

5 (A) IN GENERAL.—Subject to subpara-  
6 graph (B), a covered entity shall be treated as  
7 being in compliance with section 164.502(b)(1)  
8 of title 45, Code of Federal Regulations, with  
9 respect to the use, disclosure, or request of pro-  
10 tected health information described in such sec-  
11 tion, only if the covered entity limits such pro-  
12 tected health information, to the extent prac-  
13 ticable, to the limited data set (as defined in  
14 section 164.514(e)(2) of such title) or, if needed  
15 by such entity, to the minimum necessary to ac-  
16 complish the intended purpose of such use, dis-  
17 closure, or request, respectively.

18 (B) GUIDANCE.—Not later than 18  
19 months after the date of the enactment of this  
20 section, the Secretary shall issue guidance on  
21 what constitutes “minimum necessary” for pur-  
22 poses of subpart E of part 164 of title 45, Code  
23 of Federal Regulation. In issuing such guidance  
24 the Secretary shall take into consideration the  
25 guidance under section 13424(c).

1 (C) SUNSET.—Subparagraph (A) shall not  
2 apply on and after the effective date on which  
3 the Secretary issues the guidance under sub-  
4 paragraph (B).

5 (2) DETERMINATION OF MINIMUM NEC-  
6 ESSARY.—For purposes of paragraph (1), in the  
7 case of the disclosure of protected health informa-  
8 tion, the covered entity or business associate dis-  
9 closing such information shall determine what con-  
10 stitutes the minimum necessary to accomplish the  
11 intended purpose of such disclosure.

12 (3) APPLICATION OF EXCEPTIONS.—The excep-  
13 tions described in section 164.502(b)(2) of title 45,  
14 Code of Federal Regulations, shall apply to the re-  
15 quirement under paragraph (1) as of the effective  
16 date described in section 13423 in the same manner  
17 that such exceptions apply to section 164.502(b)(1)  
18 of such title before such date.

19 (4) RULE OF CONSTRUCTION.—Nothing in this  
20 subsection shall be construed as affecting the use,  
21 disclosure, or request of protected health information  
22 that has been de-identified.

23 (c) ACCOUNTING OF CERTAIN PROTECTED HEALTH  
24 INFORMATION DISCLOSURES REQUIRED IF COVERED EN-  
25 TITY USES ELECTRONIC HEALTH RECORD.—

1           (1) IN GENERAL.—In applying section 164.528  
2           of title 45, Code of Federal Regulations, in the case  
3           that a covered entity uses or maintains an electronic  
4           health record with respect to protected health infor-  
5           mation—

6                   (A) the exception under paragraph  
7                   (a)(1)(i) of such section shall not apply to dis-  
8                   closures through an electronic health record  
9                   made by such entity of such information; and

10                   (B) an individual shall have a right to re-  
11                   ceive an accounting of disclosures described in  
12                   such paragraph of such information made by  
13                   such covered entity during only the three years  
14                   prior to the date on which the accounting is re-  
15                   quested.

16           (2) REGULATIONS.—The Secretary shall pro-  
17           mulgate regulations on what information shall be  
18           collected about each disclosure referred to in para-  
19           graph (1)(A) not later than 18 months after the  
20           date on which the Secretary adopts standards on ac-  
21           counting for disclosure described in the section  
22           3002(b)(2)(B)(iv) of the Public Health Service Act,  
23           as added by section 13101. Such regulations shall  
24           only require such information to be collected through  
25           an electronic health record in a manner that takes

1 into account the interests of individuals in learning  
2 the circumstances under which their protected health  
3 information is being disclosed and takes into account  
4 the administrative burden of accounting for such  
5 disclosures.

6 (3) CONSTRUCTION.—Nothing in this sub-  
7 section shall be construed as—

8 (A) requiring a covered entity to account  
9 for disclosures of protected health information  
10 that are not made by such covered entity; or

11 (B) requiring a business associate of a cov-  
12 ered entity to account for disclosures of pro-  
13 tected health information that are not made by  
14 such business associate.

15 (4) REASONABLE FEE.—A covered entity may  
16 impose a reasonable fee on an individual for an ac-  
17 counting performed under paragraph (1)(B). Any  
18 such fee shall not be greater than the entity's labor  
19 costs in responding to the request.

20 (5) EFFECTIVE DATE.—

21 (A) CURRENT USERS OF ELECTRONIC  
22 RECORDS.—In the case of a covered entity inso-  
23 far as it acquired an electronic health record as  
24 of January 1, 2009, paragraph (1) shall apply  
25 to disclosures, with respect to protected health

1 information, made by the covered entity from  
2 such a record on and after January 1, 2014.

3 (B) OTHERS.—In the case of a covered en-  
4 tity insofar as it acquires an electronic health  
5 record after January 1, 2010, paragraph (1)  
6 shall apply to disclosures, with respect to pro-  
7 tected health information, made by the covered  
8 entity from such record on and after the later  
9 of the following:

10 (i) January 1, 2011; or

11 (ii) the date that it acquires an elec-  
12 tronic health record.

13 (d) REVIEW OF HEALTH CARE OPERATIONS.—Not  
14 later than 18 months after the date of the enactment of  
15 this title, the Secretary shall promulgate regulations to  
16 eliminate from the definition of health care operations  
17 under section 164.501 of title 45, Code of Federal Regula-  
18 tions, those activities that can reasonably and efficiently  
19 be conducted through the use of information that is de-  
20 identified (in accordance with the requirements of section  
21 164.514(b) of such title) or that should require a valid  
22 authorization for use or disclosure. In promulgating such  
23 regulations, the Secretary may choose to narrow or clarify  
24 activities that the Secretary chooses to retain in the defini-  
25 tion of health care operations and the Secretary shall take

1 into account the report under section 13424(d). In such  
 2 regulations the Secretary shall specify the date on which  
 3 such regulations shall apply to disclosures made by a cov-  
 4 ered entity, but in no case would such date be sooner than  
 5 the date that is 24 months after the date of the enactment  
 6 of this section.

7 (e) PROHIBITION ON SALE OF ELECTRONIC HEALTH  
 8 RECORDS OR PROTECTED HEALTH INFORMATION OB-  
 9 TAINED FROM ELECTRONIC HEALTH RECORDS.—

10 (1) IN GENERAL.—Except as provided in para-  
 11 graph (2), a covered entity or business associate  
 12 shall not directly or indirectly receive remuneration  
 13 in exchange for any protected health information of  
 14 an individual unless the covered entity obtained from  
 15 the individual, in accordance with section 164.508 of  
 16 title 45, Code of Federal Regulations, a valid au-  
 17 thorization that includes, in accordance with such  
 18 section, a specification of whether the protected  
 19 health information can be further exchanged for re-  
 20 muneration by the entity receiving protected health  
 21 information of that individual.

22 (2) EXCEPTIONS.—Paragraph (1) shall not  
 23 apply in the following cases:

24 (A) The purpose of the exchange is for re-  
 25 search or public health activities (as described

1 in sections 164.501, 164.512(i), and 164.512(b)  
2 of title 45, Code of Federal Regulations) and  
3 the price charged reflects the costs of prepara-  
4 tion and transmittal of the data for such pur-  
5 pose.

6 (B) The purpose of the exchange is for the  
7 treatment of the individual and the price  
8 charges reflects not more than the costs of  
9 preparation and transmittal of the data for  
10 such purpose.

11 (C) The purpose of the exchange is the  
12 health care operation specifically described in  
13 subparagraph (iv) of paragraph (6) of the defi-  
14 nition of healthcare operations in section  
15 164.501 of title 45, Code of Federal Regula-  
16 tions.

17 (D) The purpose of the exchange is for re-  
18 munerated that is provided by a covered entity  
19 to a business associate for activities involving  
20 the exchange of protected health information  
21 that the business associate undertakes on behalf  
22 of and at the specific request of the covered en-  
23 tity pursuant to a business associate agreement.

24 (E) The purpose of the exchange is to pro-  
25 vide an individual with a copy of the individ-



1           ual's protected health information pursuant to  
2           section 164.524 of title 45, Code of Federal  
3           Regulations.

4           (F) The purpose of the exchange is other-  
5           wise determined by the Secretary in regulations  
6           to be similarly necessary and appropriate as the  
7           exceptions provided in subparagraphs (A)  
8           through (E).

9           (3) REGULATIONS.—The Secretary shall pro-  
10          mulgate regulations to carry out this subsection, in-  
11          cluding exceptions described in paragraph (2), not  
12          later than 18 months after the date of the enact-  
13          ment of this title.

14          (4) EFFECTIVE DATE.—Paragraph (1) shall  
15          apply to exchanges occurring on or after the date  
16          that is 6 months after the date of the promulgation  
17          of final regulations implementing this subsection.

18          (f) ACCESS TO CERTAIN INFORMATION IN ELEC-  
19          TRONIC FORMAT.—In applying section 164.524 of title  
20          45, Code of Federal Regulations, in the case that a cov-  
21          ered entity uses or maintains an electronic health record  
22          with respect to protected health information of an indi-  
23          vidual—

1           (1) the individual shall have a right to obtain  
2           from such covered entity a copy of such information  
3           in an electronic format; and

4           (2) notwithstanding paragraph (c)(4) of such  
5           section, any fee that the covered entity may impose  
6           for providing such individual with a copy of such in-  
7           formation (or a summary or explanation of such in-  
8           formation) if such copy (or summary or explanation)  
9           is in an electronic form shall not be greater than the  
10          entity's labor costs in responding to the request for  
11          the copy (or summary or explanation).

12 **SEC. 13406. CONDITIONS ON CERTAIN CONTACTS AS PART**  
13 **OF HEALTH CARE OPERATIONS.**

14          (a) **MARKETING.**—

15           (1) **IN GENERAL.**—A communication by a cov-  
16          ered entity or business associate that is about a  
17          product or service and that encourages recipients of  
18          the communication to purchase or use the product  
19          or service shall not be considered a health care oper-  
20          ation for purposes of subpart E of part 164 of title  
21          45, Code of Federal Regulations, unless the commu-  
22          nication is made as described in subparagraph (i),  
23          (ii), or (iii) of paragraph (1) of the definition of  
24          marketing in section 164.501 of such title.

1           (2) PAYMENT FOR CERTAIN COMMUNICA-  
2           TIONS.—A covered entity or business associate may  
3           not receive direct or indirect payment in exchange  
4           for making any communication described in sub-  
5           paragraph (i), (ii), or (iii) of paragraph (1) of the  
6           definition of marketing in section 164.501 of title  
7           45, Code of Federal Regulations, except—

8                   (A) a business associate of a covered entity  
9                   may receive payment from the covered entity  
10                  for making any such communication on behalf  
11                  of the covered entity that is consistent with the  
12                  written contract (or other written arrangement)  
13                  described in section 164.502(e)(2) of such title  
14                  between such business associate and covered en-  
15                  tity;

16                  (B) a covered entity may receive payment  
17                  in exchange for making any such communica-  
18                  tion if the entity obtains from the recipient of  
19                  the communication, in accordance with section  
20                  164.508 of title 45, Code of Federal Regula-  
21                  tions, a valid authorization (as described in  
22                  paragraph (b) of such section) with respect to  
23                  such communication; and

24                  (C) where such communication describes  
25                  only a health care item or service that has pre-

1           viously been prescribed for or administered to  
 2           the recipient of the communication, or a family  
 3           member of such recipient.

4           (b) FUNDRAISING.—Fundraising for the benefit of a  
 5 covered entity shall not be considered a health care oper-  
 6 ation for purposes of section 164.501 of title 45, Code of  
 7 Federal Regulations.

8           (c) EFFECTIVE DATE.—This section shall apply to  
 9 contracting occurring on or after the effective date speci-  
 10 fied under section 13423.

11 **SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIRE-**  
 12 **MENT FOR VENDORS OF PERSONAL HEALTH**  
 13 **RECORDS AND OTHER NON-HIPAA COVERED**  
 14 **ENTITIES.**

15           (a) IN GENERAL.—In accordance with subsection (c),  
 16 each vendor of personal health records, following the dis-  
 17 covery of a breach of security of unsecured PHR identifi-  
 18 able health information that is in a personal health record  
 19 maintained or offered by such vendor, and each entity de-  
 20 scribed in clause (ii) or (iii) of section 13424(b)(1)(A), fol-  
 21 lowing the discovery of a breach of security of such infor-  
 22 mation that is obtained through a product or service pro-  
 23 vided by such entity, shall—

24           (1) notify each individual who is a citizen or  
 25           resident of the United States whose unsecured PHR

1 identifiable health information was acquired by an  
2 unauthorized person as a result of such a breach of  
3 security; and

4 (2) notify the Federal Trade Commission.

5 (b) NOTIFICATION BY THIRD PARTY SERVICE PRO-  
6 VIDERS.—A third party service provider that provides  
7 services to a vendor of personal health records or to an  
8 entity described in clause (ii) or (iii) of section  
9 13424(b)(1)(A) in connection with the offering or mainte-  
10 nance of a personal health record or a related product or  
11 service and that accesses, maintains, retains, modifies,  
12 records, stores, destroys, or otherwise holds, uses, or dis-  
13 closes unsecured PHR identifiable health information in  
14 such a record as a result of such services shall, following  
15 the discovery of a breach of security of such information,  
16 notify such vendor or entity, respectively, of such breach.  
17 Such notice shall include the identification of each indi-  
18 vidual whose unsecured PHR identifiable health informa-  
19 tion has been, or is reasonably believed to have been,  
20 accessed, acquired, or disclosed during such breach.

21 (c) APPLICATION OF REQUIREMENTS FOR TIMELI-  
22 NESS, METHOD, AND CONTENT OF NOTIFICATIONS.—  
23 Subsections (c), (d), (e), and (f) of section 13402 shall  
24 apply to a notification required under subsection (a) and  
25 a vendor of personal health records, an entity described

1 in subsection (a) and a third party service provider de-  
2 scribed in subsection (b), with respect to a breach of secu-  
3 rity under subsection (a) of unsecured PHR identifiable  
4 health information in such records maintained or offered  
5 by such vendor, in a manner specified by the Federal  
6 Trade Commission.

7 (d) NOTIFICATION OF THE SECRETARY.—Upon re-  
8 ceipt of a notification of a breach of security under sub-  
9 section (a)(2), the Federal Trade Commission shall notify  
10 the Secretary of such breach.

11 (e) ENFORCEMENT.—A violation of subsection (a) or  
12 (b) shall be treated as an unfair and deceptive act or prac-  
13 tice in violation of a regulation under section 18(a)(1)(B)  
14 of the Federal Trade Commission Act (15 U.S.C.  
15 57a(a)(1)(B)) regarding unfair or deceptive acts or prac-  
16 tices.

17 (f) DEFINITIONS.—For purposes of this section:

18 (1) BREACH OF SECURITY.—The term “breach  
19 of security” means, with respect to unsecured PHR  
20 identifiable health information of an individual in a  
21 personal health record, acquisition of such informa-  
22 tion without the authorization of the individual.

23 (2) PHR IDENTIFIABLE HEALTH INFORMA-  
24 TION.—The term “PHR identifiable health informa-  
25 tion” means individually identifiable health informa-

tion, as defined in section 1171(6) of the Social Security Act (42 U.S.C. 1320d(6)), and includes, with respect to an individual, information—

(A) that is provided by or on behalf of the individual; and

(B) that identifies the individual or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

(3) UNSECURED PHR IDENTIFIABLE HEALTH INFORMATION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term “unsecured PHR identifiable health information” means PHR identifiable health information that is not protected through the use of a technology or methodology specified by the Secretary in the guidance issued under section 13402(h)(2).

(B) EXCEPTION IN CASE TIMELY GUIDANCE NOT ISSUED.—In the case that the Secretary does not issue guidance under section 13402(h)(2) by the date specified in such section, for purposes of this section, the term “unsecured PHR identifiable health information” shall mean PHR identifiable health information

1           that is not secured by a technology standard  
2           that renders protected health information unus-  
3           able, unreadable, or indecipherable to unauthor-  
4           ized individuals and that is developed or en-  
5           dorsed by a standards developing organization  
6           that is accredited by the American National  
7           Standards Institute.

8           (g) REGULATIONS; EFFECTIVE DATE; SUNSET.—

9           (1) REGULATIONS; EFFECTIVE DATE.—To  
10          carry out this section, the Secretary of Health and  
11          Human Services shall promulgate interim final regu-  
12          lations by not later than the date that is 180 days  
13          after the date of the enactment of this section. The  
14          provisions of this section shall apply to breaches of  
15          security that are discovered on or after the date that  
16          is 30 days after the date of publication of such in-  
17          terim final regulations.

18          (2) SUNSET.—The provisions of this section  
19          shall not apply to breaches of security occurring on  
20          or after the earlier of the following the dates:

21                (A) The date on which a standard relating  
22                to requirements for entities that are not covered  
23                entities that includes requirements relating to  
24                breach notification has been promulgated by the  
25                Secretary.



1 (B) The date on which a standard relating  
2 to requirements for entities that are not covered  
3 entities that includes requirements relating to  
4 breach notification has been promulgated by the  
5 Federal Trade Commission and has taken ef-  
6 fect.

7 **SEC. 13408. BUSINESS ASSOCIATE CONTRACTS REQUIRED**  
8 **FOR CERTAIN ENTITIES.**

9 Each organization, with respect to a covered entity,  
10 that provides data transmission of protected health infor-  
11 mation to such entity (or its business associate) and that  
12 requires access on a routine basis to such protected health  
13 information, such as a Health Information Exchange Or-  
14 ganization, Regional Health Information Organization, E-  
15 prescribing Gateway, or each vendor that contracts with  
16 a covered entity to allow that covered entity to offer a per-  
17 sonal health record to patients as part of its electronic  
18 health record, is required to enter into a written contract  
19 (or other written arrangement) described in section  
20 164.502(e)(2) of title 45, Code of Federal Regulations and  
21 a written contract (or other arrangement) described in  
22 section 164.308(b) of such title, with such entity and shall  
23 be treated as a business associate of the covered entity  
24 for purposes of the provisions of this subtitle and subparts  
25 C and E of part 164 of title 45, Code of Federal Regula-

tions, as such provisions are in effect as of the date of enactment of this title.

**SEC. 13409. CLARIFICATION OF APPLICATION OF WRONGFUL DISCLOSURES CRIMINAL PENALTIES.**

Section 1177(a) of the Social Security Act (42 U.S.C. 1320d–6(a)) is amended by adding at the end the following new sentence: “For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1180(b)(3)) and the individual obtained or disclosed such information without authorization.”.

**SEC. 13410. IMPROVED ENFORCEMENT.**

(a) IN GENERAL.—Section 1176 of the Social Security Act (42 U.S.C. 1320d–5) is amended—

(1) in subsection (b)(1), by striking “the act constitutes an offense punishable under section 1177” and inserting “a penalty has been imposed under section 1177 with respect to such act”; and

(2) by adding at the end the following new subsection:

“(c) NONCOMPLIANCE DUE TO WILLFUL NEGLIGENCE.—

1           “(1) IN GENERAL.—A violation of a provision  
2           of this part due to willful neglect is a violation for  
3           which the Secretary is required to impose a penalty  
4           under subsection (a)(1).

5           “(2) REQUIRED INVESTIGATION.—For purposes  
6           of paragraph (1), the Secretary shall formally inves-  
7           tigate any complaint of a violation of a provision of  
8           this part if a preliminary investigation of the facts  
9           of the complaint indicate such a possible violation  
10          due to willful neglect.”.

11          (b) EFFECTIVE DATE; REGULATIONS.—

12           (1) The amendments made by subsection (a)  
13           shall apply to penalties imposed on or after the date  
14           that is 24 months after the date of the enactment  
15           of this title.

16           (2) Not later than 18 months after the date of  
17           the enactment of this title, the Secretary of Health  
18           and Human Services shall promulgate regulations to  
19           implement such amendments.

20          (c) DISTRIBUTION OF CERTAIN CIVIL MONETARY  
21          PENALTIES COLLECTED.—

22           (1) IN GENERAL.—Subject to the regulation  
23           promulgated pursuant to paragraph (3), any civil  
24           monetary penalty or monetary settlement collected  
25           with respect to an offense punishable under this sub-

1 title or section 1176 of the Social Security Act (42  
2 U.S.C. 1320d-5) insofar as such section relates to  
3 privacy or security shall be transferred to the Office  
4 of Civil Rights of the Department of Health and  
5 Human Services to be used for purposes of enforcing  
6 the provisions of this subtitle and subparts C and E  
7 of part 164 of title 45, Code of Federal Regulations,  
8 as such provisions are in effect as of the date of en-  
9 actment of this Act.

10 (2) GAO REPORT.—Not later than 18 months  
11 after the date of the enactment of this title, the  
12 Comptroller General shall submit to the Secretary a  
13 report including recommendations for a methodology  
14 under which an individual who is harmed by an act  
15 that constitutes an offense referred to in paragraph  
16 (1) may receive a percentage of any civil monetary  
17 penalty or monetary settlement collected with re-  
18 spect to such offense.

19 (3) ESTABLISHMENT OF METHODOLOGY TO  
20 DISTRIBUTE PERCENTAGE OF CMPS COLLECTED TO  
21 HARMED INDIVIDUALS.—Not later than 3 years  
22 after the date of the enactment of this title, the Sec-  
23 retary shall establish by regulation and based on the  
24 recommendations submitted under paragraph (2), a  
25 methodology under which an individual who is

1        harmed by an act that constitutes an offense re-  
 2        ferred to in paragraph (1) may receive a percentage  
 3        of any civil monetary penalty or monetary settlement  
 4        collected with respect to such offense.

5            (4) APPLICATION OF METHODOLOGY.—The  
 6        methodology under paragraph (3) shall be applied  
 7        with respect to civil monetary penalties or monetary  
 8        settlements imposed on or after the effective date of  
 9        the regulation.

10        (d) TIERED INCREASE IN AMOUNT OF CIVIL MONE-  
 11        TARY PENALTIES.—

12            (1) IN GENERAL.—Section 1176(a)(1) of the  
 13        Social Security Act (42 U.S.C. 1320d-5(a)(1)) is  
 14        amended by striking “who violates a provision of  
 15        this part a penalty of not more than” and all that  
 16        follows and inserting the following: “who violates a  
 17        provision of this part—

18            “(A) in the case of a violation of such pro-  
 19        vision in which it is established that the person  
 20        did not know (and by exercising reasonable dili-  
 21        gence would not have known) that such person  
 22        violated such provision, a penalty for each such  
 23        violation of an amount that is at least the  
 24        amount described in paragraph (3)(A) but not

1 to exceed the amount described in paragraph  
2 (3)(D);

3 “(B) in the case of a violation of such pro-  
4 vision in which it is established that the viola-  
5 tion was due to reasonable cause and not to  
6 willful neglect, a penalty for each such violation  
7 of an amount that is at least the amount de-  
8 scribed in paragraph (3)(B) but not to exceed  
9 the amount described in paragraph (3)(D); and

10 “(C) in the case of a violation of such pro-  
11 vision in which it is established that the viola-  
12 tion was due to willful neglect—

13 “(i) if the violation is corrected as de-  
14 scribed in subsection (b)(3)(A), a penalty  
15 in an amount that is at least the amount  
16 described in paragraph (3)(C) but not to  
17 exceed the amount described in paragraph  
18 (3)(D); and

19 “(ii) if the violation is not corrected  
20 as described in such subsection, a penalty  
21 in an amount that is at least the amount  
22 described in paragraph (3)(D).

23 “In determining the amount of a penalty under  
24 this section for a violation, the Secretary shall  
25 base such determination on the nature and ex-

1           tent of the violation and the nature and extent  
2           of the harm resulting from such violation.”.

3           (2) TIERS OF PENALTIES DESCRIBED.—Section  
4           1176(a) of such Act (42 U.S.C. 1320d-5(a)) is fur-  
5           ther amended by adding at the end the following  
6           new paragraph:

7           “(3) TIERS OF PENALTIES DESCRIBED.—For  
8           purposes of paragraph (1), with respect to a viola-  
9           tion by a person of a provision of this part—

10           “(A) the amount described in this subpara-  
11           graph is \$100 for each such violation, except  
12           that the total amount imposed on the person  
13           for all such violations of an identical require-  
14           ment or prohibition during a calendar year may  
15           not exceed \$25,000;

16           “(B) the amount described in this subpara-  
17           graph is \$1,000 for each such violation, except  
18           that the total amount imposed on the person  
19           for all such violations of an identical require-  
20           ment or prohibition during a calendar year may  
21           not exceed \$100,000;

22           “(C) the amount described in this subpara-  
23           graph is \$10,000 for each such violation, except  
24           that the total amount imposed on the person  
25           for all such violations of an identical require-

1           ment or prohibition during a calendar year may  
2           not exceed \$250,000; and

3           “(D) the amount described in this sub-  
4           paragraph is \$50,000 for each such violation,  
5           except that the total amount imposed on the  
6           person for all such violations of an identical re-  
7           quirement or prohibition during a calendar year  
8           may not exceed \$1,500,000.”.

9           (3)    CONFORMING    AMENDMENTS.—Section  
10          1176(b) of such Act (42 U.S.C. 1320d-5(b)) is  
11          amended—

12                (A) by striking paragraph (2) and redesignig-  
13                nating paragraphs (3) and (4) as paragraphs  
14                (2) and (3), respectively; and

15                (B) in paragraph (2), as so redesignated—

16                   (i) in subparagraph (A), by striking  
17                   “in subparagraph (B), a penalty may not  
18                   be imposed under subsection (a) if” and all  
19                   that follows through “the failure to comply  
20                   is corrected” and inserting “in subpara-  
21                   graph (B) or subsection (a)(1)(C), a pen-  
22                   alty may not be imposed under subsection  
23                   (a) if the failure to comply is corrected”;  
24                   and



1 (ii) in subparagraph (B), by striking  
 2 “(A)(ii)” and inserting “(A)” each place it  
 3 appears.

4 (4) EFFECTIVE DATE.—The amendments made  
 5 by this subsection shall apply to violations occurring  
 6 after the date of the enactment of this title.

7 (e) ENFORCEMENT THROUGH STATE ATTORNEYS  
 8 GENERAL.—

9 (1) IN GENERAL.—Section 1176 of the Social  
 10 Security Act (42 U.S.C. 1320d–5) is amended by  
 11 adding at the end the following new subsection:

12 “(d) ENFORCEMENT BY STATE ATTORNEYS GEN-  
 13 ERAL.—

14 “(1) CIVIL ACTION.—Except as provided in  
 15 subsection (b), in any case in which the attorney  
 16 general of a State has reason to believe that an in-  
 17 terest of one or more of the residents of that State  
 18 has been or is threatened or adversely affected by  
 19 any person who violates a provision of this part, the  
 20 attorney general of the State, as *parens patriae*, may  
 21 bring a civil action on behalf of such residents of the  
 22 State in a district court of the United States of ap-  
 23 propriate jurisdiction—

24 “(A) to enjoin further such violation by the  
 25 defendant; or

1           “(B) to obtain damages on behalf of such  
2 residents of the State, in an amount equal to  
3 the amount determined under paragraph (2).

4           “(2) STATUTORY DAMAGES.—

5           “(A) IN GENERAL.—For purposes of para-  
6 graph (1)(B), the amount determined under  
7 this paragraph is the amount calculated by mul-  
8 tiplying the number of violations by up to \$100.  
9 For purposes of the preceding sentence, in the  
10 case of a continuing violation, the number of  
11 violations shall be determined consistent with  
12 the HIPAA privacy regulations (as defined in  
13 section 1180(b)(3)) for violations of subsection  
14 (a).

15           “(B) LIMITATION.—The total amount of  
16 damages imposed on the person for all viola-  
17 tions of an identical requirement or prohibition  
18 during a calendar year may not exceed \$25,000.

19           “(C) REDUCTION OF DAMAGES.—In as-  
20 sessing damages under subparagraph (A), the  
21 court may consider the factors the Secretary  
22 may consider in determining the amount of a  
23 civil money penalty under subsection (a) under  
24 the HIPAA privacy regulations.

1           “(3) ATTORNEY FEES.—In the case of any suc-  
2           cessful action under paragraph (1), the court, in its  
3           discretion, may award the costs of the action and  
4           reasonable attorney fees to the State.

5           “(4) NOTICE TO SECRETARY.—The State shall  
6           serve prior written notice of any action under para-  
7           graph (1) upon the Secretary and provide the Sec-  
8           retary with a copy of its complaint, except in any  
9           case in which such prior notice is not feasible, in  
10          which case the State shall serve such notice imme-  
11          diately upon instituting such action. The Secretary  
12          shall have the right—

13                   “(A) to intervene in the action;

14                   “(B) upon so intervening, to be heard on  
15                   all matters arising therein; and

16                   “(C) to file petitions for appeal.

17          “(5) CONSTRUCTION.—For purposes of bring-  
18          ing any civil action under paragraph (1), nothing in  
19          this section shall be construed to prevent an attor-  
20          ney general of a State from exercising the powers  
21          conferred on the attorney general by the laws of that  
22          State.

23          “(6) VENUE; SERVICE OF PROCESS.—

24                   “(A) VENUE.—Any action brought under  
25                   paragraph (1) may be brought in the district

1 court of the United States that meets applicable  
2 requirements relating to venue under section  
3 1391 of title 28, United States Code.

4 “(B) SERVICE OF PROCESS.—In an action  
5 brought under paragraph (1), process may be  
6 served in any district in which the defendant—

7 “(i) is an inhabitant; or

8 “(ii) maintains a physical place of  
9 business.

10 “(7) LIMITATION ON STATE ACTION WHILE  
11 FEDERAL ACTION IS PENDING.—If the Secretary has  
12 instituted an action against a person under sub-  
13 section (a) with respect to a specific violation of this  
14 part, no State attorney general may bring an action  
15 under this subsection against the person with re-  
16 spect to such violation during the pendency of that  
17 action.

18 “(8) APPLICATION OF CMP STATUTE OF LIM-  
19 TATION.—A civil action may not be instituted with  
20 respect to a violation of this part unless an action  
21 to impose a civil money penalty may be instituted  
22 under subsection (a) with respect to such violation  
23 consistent with the second sentence of section  
24 1128A(c)(1).”.

1           (2) CONFORMING AMENDMENTS.—Subsection  
2           (b) of such section, as amended by subsection (d)(3),  
3           is amended—

4                   (A) in paragraph (1), by striking “A pen-  
5                   alty may not be imposed under subsection (a)”  
6                   and inserting “No penalty may be imposed  
7                   under subsection (a) and no damages obtained  
8                   under subsection (d)”;

9                   (B) in paragraph (2)(A)—

10                          (i) after “subsection (a)(1)(C),”, by  
11                          striking “a penalty may not be imposed  
12                          under subsection (a)” and inserting “no  
13                          penalty may be imposed under subsection  
14                          (a) and no damages obtained under sub-  
15                          section (d)”;

16                          (ii) in clause (ii), by inserting “or  
17                          damages” after “the penalty”;

18                   (C) in paragraph (2)(B)(i), by striking  
19                   “The period” and inserting “With respect to  
20                   the imposition of a penalty by the Secretary  
21                   under subsection (a), the period”; and

22                   (D) in paragraph (3), by inserting “and  
23                   any damages under subsection (d)” after “any  
24                   penalty under subsection (a)”.

1           (3) EFFECTIVE DATE.—The amendments made  
2       by this subsection shall apply to violations occurring  
3       after the date of the enactment of this Act.

4           (f) ALLOWING CONTINUED USE OF CORRECTIVE AC-  
5       TION.—Such section is further amended by adding at the  
6       end the following new subsection:

7           “(e) ALLOWING CONTINUED USE OF CORRECTIVE  
8       ACTION.—Nothing in this section shall be construed as  
9       preventing the Office of Civil Rights of the Department  
10      of Health and Human Services from continuing, in its dis-  
11      cretion, to use corrective action without a penalty in cases  
12      where the person did not know (and by exercising reason-  
13      able diligence would not have known) of the violation in-  
14      volved.”.

15   **SEC. 13411. AUDITS.**

16           The Secretary shall provide for periodic audits to en-  
17      sure that covered entities and business associates that are  
18      subject to the requirements of this subtitle and subparts  
19      C and E of part 164 of title 45, Code of Federal Regula-  
20      tions, as such provisions are in effect as of the date of  
21      enactment of this Act, comply with such requirements.

1 **PART II—RELATIONSHIP TO OTHER LAWS; REGU-**  
2 **LATORY REFERENCES; EFFECTIVE DATE; RE-**  
3 **PORTS**

4 **SEC. 13421. RELATIONSHIP TO OTHER LAWS.**

5 (a) APPLICATION OF HIPAA STATE PREEMPTION.—  
6 Section 1178 of the Social Security Act (42 U.S.C.  
7 1320d–7) shall apply to a provision or requirement under  
8 this subtitle in the same manner that such section applies  
9 to a provision or requirement under part C of title XI of  
10 such Act or a standard or implementation specification  
11 adopted or established under sections 1172 through 1174  
12 of such Act.

13 (b) HEALTH INSURANCE PORTABILITY AND AC-  
14 COUNTABILITY ACT.—The standards governing the pri-  
15 vacy and security of individually identifiable health infor-  
16 mation promulgated by the Secretary under sections  
17 262(a) and 264 of the Health Insurance Portability and  
18 Accountability Act of 1996 shall remain in effect to the  
19 extent that they are consistent with this subtitle. The Sec-  
20 retary shall by rule amend such Federal regulations as re-  
21 quired to make such regulations consistent with this sub-  
22 title. In carrying out the preceding sentence, the Secretary  
23 shall revise the definition of “psychotherapy notes” in sec-  
24 tion 164.501 of title 45, Code of Federal Regulations, to  
25 include test data that is related to direct responses, scores,  
26 items, forms, protocols, manuals, or other materials that

1 are part of a mental health evaluation, as determined by  
 2 the mental health professional providing treatment or  
 3 evaluation.

4 **SEC. 13422. REGULATORY REFERENCES.**

5 Each reference in this subtitle to a provision of the  
 6 Code of Federal Regulations refers to such provision as  
 7 in effect on the date of the enactment of this title (or to  
 8 the most recent update of such provision).

9 **SEC. 13423. EFFECTIVE DATE.**

10 Except as otherwise specifically provided, the provi-  
 11 sions of part I shall take effect on the date that is 12  
 12 months after the date of the enactment of this title.

13 **SEC. 13424. STUDIES, REPORTS, GUIDANCE.**

14 (a) REPORT ON COMPLIANCE.—

15 (1) IN GENERAL.—For the first year beginning  
 16 after the date of the enactment of this Act and an-  
 17 nually thereafter, the Secretary shall prepare and  
 18 submit to the Committee on Health, Education,  
 19 Labor, and Pensions of the Senate and the Com-  
 20 mittee on Ways and Means and the Committee on  
 21 Energy and Commerce of the House of Representa-  
 22 tives a report concerning complaints of alleged viola-  
 23 tions of law, including the provisions of this subtitle  
 24 as well as the provisions of subparts C and E of part  
 25 164 of title 45, Code of Federal Regulations, (as



1 such provisions are in effect as of the date of enact-  
2 ment of this Act) relating to privacy and security of  
3 health information that are received by the Secretary  
4 during the year for which the report is being pre-  
5 pared. Each such report shall include, with respect  
6 to such complaints received during the year—

7 (A) the number of such complaints;

8 (B) the number of such complaints re-  
9 solved informally, a summary of the types of  
10 such complaints so resolved, and the number of  
11 covered entities that received technical assist-  
12 ance from the Secretary during such year in  
13 order to achieve compliance with such provi-  
14 sions and the types of such technical assistance  
15 provided;

16 (C) the number of such complaints that  
17 have resulted in the imposition of civil monetary  
18 penalties or have been resolved through mone-  
19 tary settlements, including the nature of the  
20 complaints involved and the amount paid in  
21 each penalty or settlement;

22 (D) the number of compliance reviews con-  
23 ducted and the outcome of each such review;

24 (E) the number of subpoenas or inquiries  
25 issued;

1 (F) the Secretary's plan for improving  
2 compliance with and enforcement of such provi-  
3 sions for the following year; and

4 (G) the number of audits performed and a  
5 summary of audit findings pursuant to section  
6 13411.

7 (2) AVAILABILITY TO PUBLIC.—Each report  
8 under paragraph (1) shall be made available to the  
9 public on the Internet website of the Department of  
10 Health and Human Services.

11 (b) STUDY AND REPORT ON APPLICATION OF PRI-  
12 VACY AND SECURITY REQUIREMENTS TO NON-HIPAA  
13 COVERED ENTITIES.—

14 (1) STUDY.—Not later than one year after the  
15 date of the enactment of this title, the Secretary, in  
16 consultation with the Federal Trade Commission,  
17 shall conduct a study, and submit a report under  
18 paragraph (2), on privacy and security requirements  
19 for entities that are not covered entities or business  
20 associates as of the date of the enactment of this  
21 title, including—

22 (A) requirements relating to security, pri-  
23 vacy, and notification in the case of a breach of  
24 security or privacy (including the applicability  
25 of an exemption to notification in the case of

1 individually identifiable health information that  
2 has been rendered unusable, unreadable, or in-  
3 decipherable through technologies or methodolo-  
4 gies recognized by appropriate professional or-  
5 ganization or standard setting bodies to provide  
6 effective security for the information) that  
7 should be applied to—

8 (i) vendors of personal health records;

9 (ii) entities that offer products or  
10 services through the website of a vendor of  
11 personal health records;

12 (iii) entities that are not covered enti-  
13 ties and that offer products or services  
14 through the websites of covered entities  
15 that offer individuals personal health  
16 records;

17 (iv) entities that are not covered enti-  
18 ties and that access information in a per-  
19 sonal health record or send information to  
20 a personal health record; and

21 (v) third party service providers used  
22 by a vendor or entity described in clause  
23 (i), (ii), (iii), or (iv) to assist in providing  
24 personal health record products or services;

1 (B) a determination of which Federal gov-  
2 ernment agency is best equipped to enforce  
3 such requirements recommended to be applied  
4 to such vendors, entities, and service providers  
5 under subparagraph (A); and

6 (C) a timeframe for implementing regula-  
7 tions based on such findings.

8 (2) REPORT.—The Secretary shall submit to  
9 the Committee on Finance, the Committee on  
10 Health, Education, Labor, and Pensions, and the  
11 Committee on Commerce of the Senate and the  
12 Committee on Ways and Means and the Committee  
13 on Energy and Commerce of the House of Rep-  
14 resentatives a report on the findings of the study  
15 under paragraph (1) and shall include in such report  
16 recommendations on the privacy and security re-  
17 quirements described in such paragraph.

18 (c) GUIDANCE ON IMPLEMENTATION SPECIFICATION  
19 TO DE-IDENTIFY PROTECTED HEALTH INFORMATION.—  
20 Not later than 12 months after the date of the enactment  
21 of this title, the Secretary shall, in consultation with stake-  
22 holders, issue guidance on how best to implement the re-  
23 quirements for the de-identification of protected health in-  
24 formation under section 164.514(b) of title 45, Code of  
25 Federal Regulations.

1       (d) GAO REPORT ON TREATMENT DISCLOSURES.—  
2 Not later than one year after the date of the enactment  
3 of this title, the Comptroller General of the United States  
4 shall submit to the Committee on Health, Education,  
5 Labor, and Pensions of the Senate and the Committee on  
6 Ways and Means and the Committee on Energy and Com-  
7 merce of the House of Representatives a report on the  
8 best practices related to the disclosure among health care  
9 providers of protected health information of an individual  
10 for purposes of treatment of such individual. Such report  
11 shall include an examination of the best practices imple-  
12 mented by States and by other entities, such as health  
13 information exchanges and regional health information or-  
14 ganizations, an examination of the extent to which such  
15 best practices are successful with respect to the quality  
16 of the resulting health care provided to the individual and  
17 with respect to the ability of the health care provider to  
18 manage such best practices, and an examination of the  
19 use of electronic informed consent for disclosing protected  
20 health information for treatment, payment, and health  
21 care operations.

## 1 TITLE XIV—STATE FISCAL STABILIZATION

## 2 DEPARTMENT OF EDUCATION

## 3 STATE FISCAL STABILIZATION FUND

4 For necessary expenses for a State Fiscal Stabiliza-  
5 tion Fund, \$79,000,000,000, which shall be administered  
6 by the Department of Education, and shall be available  
7 through September 30, 2010.

## 8 GENERAL PROVISIONS—THIS TITLE

9 **SEC. 1401. ALLOCATIONS.**

10 (a) OUTLYING AREAS.—The Secretary of Education  
11 shall first allocate one-half of 1 percent to the outlying  
12 areas on the basis of their respective needs, as determined  
13 by the Secretary, for activities consistent with this title  
14 under such terms and conditions as the Secretary may de-  
15 termine.

16 (b) ADMINISTRATION AND OVERSIGHT.—The Sec-  
17 retary may reserve up to \$25,000,000 for administration  
18 and oversight of this title, including for program evalua-  
19 tion.

20 (c) RESERVATION FOR ADDITIONAL PROGRAMS.—  
21 After reserving funds under subsections (a) and (b), the  
22 Secretary shall reserve \$15,000,000,000 for grants under  
23 sections 1406 and 1407.

24 (d) STATE ALLOCATIONS.—After carrying out sub-  
25 sections (a), (b), and (c), the Secretary shall allocate the

1 remaining funds made available to carry out this title to  
2 the States as follows:

3 (1) 61 percent on the basis of their relative  
4 population of individuals aged 5 through 24.

5 (2) 39 percent on the basis of their relative  
6 total population.

7 (e) STATE GRANTS.—From funds allocated under  
8 subsection (d), the Secretary shall make grants to the  
9 Governor of each State.

10 (f) REALLOCATION.—The Governor shall return to  
11 the Secretary any funds received under subsection (e) that  
12 the Governor does not obligate within 1 year of receiving  
13 a grant, and the Secretary shall reallocate such funds to  
14 the remaining States in accordance with subsection (d).

15 **SEC. 1402. STATE USES OF FUNDS.**

16 (a) EDUCATION FUND.—

17 (1) IN GENERAL.—The Governor shall use at  
18 least 61 percent of the State's allocation under sec-  
19 tion 1401 for the support of elementary, secondary,  
20 and postsecondary education and, as applicable,  
21 early childhood education programs and services.

22 (2) RESTORING 2008 STATE SUPPORT FOR EDU-  
23 CATION.—

24 (A) IN GENERAL.—The Governor shall  
25 first use the funds described in paragraph (1)—

1 (i) to provide the amount of funds,  
2 through the State's principal elementary  
3 and secondary funding formula, that is  
4 needed to restore State support for elemen-  
5 tary and secondary education to the fiscal  
6 year 2008 level; and where applicable, to  
7 allow existing State formula increases for  
8 fiscal years 2009, 2010, and 2011 to be  
9 implemented and allow funding for phasing  
10 in State equity and adequacy adjustments  
11 that were enacted prior to July 1, 2008;  
12 and

13 (ii) to provide the amount of funds to  
14 public institutions of higher education in  
15 the State that is needed to restore State  
16 support for postsecondary education to the  
17 fiscal year 2008 level.

18 (B) SHORTFALL.—If the Governor deter-  
19 mines that the amount of funds available under  
20 paragraph (1) is insufficient to restore State  
21 support for education to the levels described in  
22 clauses (i) and (ii) of subparagraph (A), the  
23 Governor shall allocate those funds between  
24 those clauses in proportion to the relative short-



1 fall in State support for the education sectors  
2 described in those clauses.

3 (3) SUBGRANTS TO IMPROVE BASIC PROGRAMS  
4 OPERATED BY LOCAL EDUCATIONAL AGENCIES.—  
5 After carrying out paragraph (2), the Governor shall  
6 use any funds remaining under paragraph (1) to  
7 provide local educational agencies in the State with  
8 subgrants based on their relative shares of funding  
9 under part A of title I of the Elementary and Sec-  
10 ondary Education Act of 1965 (20 U.S.C. 6311 et  
11 seq.) for the most recent year for which data are  
12 available.

13 (b) OTHER GOVERNMENT SERVICES.—The Governor  
14 may use up to 39 percent of the State’s allocation under  
15 section 1401 for public safety and other government serv-  
16 ices, which may include assistance for elementary and sec-  
17 ondary education and public institutions of higher edu-  
18 cation.

19 **SEC. 1403. USES OF FUNDS BY LOCAL EDUCATIONAL AGEN-**  
20 **CIES.**

21 (a) IN GENERAL.—A local educational agency that  
22 receives funds under this title may use the funds for any  
23 activity authorized by the Elementary and Secondary Edu-  
24 cation Act of 1965 (20 U.S.C. 6301 et seq.) (“ESEA”),  
25 the Individuals with Disabilities Education Act (20 U.S.C.

1 1400 et seq.) (“IDEA”), or the Carl D. Perkins Career  
 2 and Technical Education Act of 2006 (20 U.S.C. 2301  
 3 et seq.) (“the Perkins Act”).

4 (b) PROHIBITION.—A local educational agency may  
 5 not use funds received under this title for capital projects  
 6 unless authorized by ESEA, IDEA, or the Perkins Act.

7 **SEC. 1404. USES OF FUNDS BY INSTITUTIONS OF HIGHER**  
 8 **EDUCATION.**

9 (a) IN GENERAL.—A public institution of higher edu-  
 10 cation that receives funds under this title shall use the  
 11 funds for education and general expenditures, and in such  
 12 a way as to mitigate the need to raise tuition and fees  
 13 for in-State students.

14 (b) PROHIBITION.—An institution of higher edu-  
 15 cation may not use funds received under this title to in-  
 16 crease its endowment.

17 (c) ADDITIONAL PROHIBITION.—An institution of  
 18 higher education may not use funds received under this  
 19 title for construction, renovation, or facility repair.

20 **SEC. 1405. STATE APPLICATIONS.**

21 (a) IN GENERAL.—The Governor of a State desiring  
 22 to receive an allocation under section 1401 shall submit  
 23 an application at such time, in such manner, and con-  
 24 taining such information as the Secretary may reasonably  
 25 require.

1 (b) APPLICATION.—The Governor shall—

2 (1) include the assurances described in sub-  
3 section (d);

4 (2) provide baseline data that demonstrates the  
5 State's current status in each of the areas described  
6 in such assurances; and

7 (3) describe how the State intends to use its al-  
8 location.

9 (c) INCENTIVE GRANT APPLICATION.—The Governor  
10 of a State seeking a grant under section 1406 shall—

11 (1) submit an application for consideration;

12 (2) describe the status of the State's progress  
13 in each of the areas described in subsection (d);

14 (3) describe the achievement and graduation  
15 rates of public elementary and secondary school stu-  
16 dents in the State, and the strategies the State is  
17 employing to help ensure that all subgroups of stu-  
18 dents identified in 1111(b)(2) of ESEA in the State  
19 continue making progress toward meeting the  
20 State's student academic achievement standards;

21 (4) describe how the State would use its grant  
22 funding to improve student academic achievement in  
23 the State, including how it will allocate the funds to  
24 give priority to high-need schools and local edu-  
25 cational agencies; and

1           (5) include a plan for evaluating its progress in  
2       closing achievement gaps.

3       (d) ASSURANCES.—An application under subsection  
4 (b) shall include the following assurances:

5           (1) MAINTENANCE OF EFFORT.—

6               (A) ELEMENTARY AND SECONDARY EDU-  
7       CATION.—The State will, in each of fiscal years  
8       2009 and 2010, maintain State support for ele-  
9       mentary and secondary education at least at  
10      the level of such support in fiscal year 2006.

11            (B) HIGHER EDUCATION.—The State will,  
12      in each of fiscal years 2009 and 2010, maintain  
13      State support for public institutions of higher  
14      education (not including support for capital  
15      projects or for research and development) at  
16      least at the level of such support in fiscal year  
17      2006.

18           (2) ACHIEVING EQUITY IN TEACHER DISTRIBU-  
19      TION.—The State will take action, including activi-  
20      ties outlined in section 2113(c) of ESEA, to increase  
21      the number, and improve the distribution, of effec-  
22      tive teachers and principals in high-poverty schools  
23      and local educational agencies throughout the State.

24           (3) IMPROVING COLLECTION AND USE OF  
25      DATA.—The State will establish a longitudinal data

1 system that includes the elements described in sec-  
2 tion 6401(e)(2)(D) of the America COMPETES Act  
3 (20 U.S.C. 9871).

4 (4) STANDARDS AND ASSESSMENTS.—The  
5 State—

6 (A) will enhance the quality of academic  
7 assessments described in section 1111(b)(3) of  
8 ESEA (20 U.S.C. 6311(b)(3)) through activi-  
9 ties such as those described in section 6112(a)  
10 of such Act (20 U.S.C. 7301a(a));

11 (B) will comply with the requirements of  
12 paragraphs (3)(C)(ix) and (6) of section  
13 1111(b) of ESEA (20 U.S.C. 6311(b)) and sec-  
14 tion 612(a)(16) of IDEA (20 U.S.C.  
15 1412(a)(16)) related to the inclusion of children  
16 with disabilities and limited English proficient  
17 students in State assessments, the development  
18 of valid and reliable assessments for those stu-  
19 dents, and the provision of accommodations  
20 that enable their participation in State assess-  
21 ments; and

22 (C) will take steps to improve State aca-  
23 demic content standards and student academic  
24 achievement standards consistent with

1           6401(e)(1)(A)(ii) of the America COMPETES  
2           Act.

3           (5) will ensure compliance with the require-  
4           ments of section 1116(a)(7)(C)(iv) and section  
5           1116(a)(8)(B) with respect to schools identified  
6           under such sections.

7   **SEC. 1406. STATE INCENTIVE GRANTS.**

8           (a) IN GENERAL.—From the total amount reserved  
9           under section 1401(c) that is not used for section 1407,  
10          the Secretary shall, in fiscal year 2010, make grants to  
11          States that have made significant progress in meeting the  
12          objectives of paragraphs (2), (3), (4), and (5) of section  
13          1405(d).

14          (b) BASIS FOR GRANTS.—The Secretary shall deter-  
15          mine which States receive grants under this section, and  
16          the amount of those grants, on the basis of information  
17          provided in State applications under section 1405 and  
18          such other criteria as the Secretary determines appro-  
19          priate.

20          (c) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
21          CIES.—Each State receiving a grant under this section  
22          shall use at least 50 percent of the grant to provide local  
23          educational agencies in the State with subgrants based on  
24          their relative shares of funding under part A of title I of  
25          ESEA (20 U.S.C. 6311 et seq.) for the most recent year.

1 **SEC. 1407. INNOVATION FUND.**

2 (a) IN GENERAL.—

3 (1) ELIGIBLE ENTITY.—For the purposes of  
4 this section, the term “eligible entity” means—

5 (A) A local educational agency; or

6 (B) a partnership between a nonprofit or-  
7 ganization and—

8 (i) one or more local educational agen-  
9 cies;

10 (ii) or a consortium of schools.

11 (2) PROGRAM ESTABLISHED.—From the total  
12 amount reserved under section 1401(c), the Sec-  
13 retary may reserve up to \$650,000,000 to establish  
14 an Innovation Fund, which shall consist of academic  
15 achievement awards that recognize eligible entities  
16 that meet the requirements described in subsection  
17 (b).

18 (3) BASIS FOR AWARDS.—The Secretary shall  
19 make awards to eligible entities that have made sig-  
20 nificant gains in closing the achievement gap as de-  
21 scribed in subsection (b)(1)—

22 (A) to allow such eligible entities to expand  
23 their work and serve as models for best prac-  
24 tices;

1 (B) to allow such eligible entities to work  
2 in partnership with the private sector and the  
3 philanthropic community; and

4 (C) to identify and document best practices  
5 that can be shared, and taken to scale based on  
6 demonstrated success.

7 (b) ELIGIBILITY.—To be eligible for such an award,  
8 an eligible entity shall—

9 (1) have significantly closed the achievement  
10 gaps between groups of students described in section  
11 1111(b)(2) of ESEA (20 U.S.C. 6311(b)(2));

12 (2) have exceeded the State’s annual measur-  
13 able objectives consistent with such section  
14 1111(b)(2) for 2 or more consecutive years or have  
15 demonstrated success in significantly increasing stu-  
16 dent academic achievement for all groups of stu-  
17 dents described in such section through another  
18 measure, such as measures described in section  
19 1111(c)(2) of ESEA;

20 (3) have made significant improvement in other  
21 areas, such as graduation rates or increased recruit-  
22 ment and placement of high-quality teachers and  
23 school leaders, as demonstrated with meaningful  
24 data; and



1           (4) demonstrate that they have established  
2           partnerships with the private sector, which may in-  
3           clude philanthropic organizations, and that the pri-  
4           vate sector will provide matching funds in order to  
5           help bring results to scale.

6 **SEC. 1408. STATE REPORTS.**

7           A State receiving funds under this title shall submit  
8           a report to the Secretary, at such time and in such manner  
9           as the Secretary may require, that describes—

10           (1) the uses of funds provided under this title  
11           within the State;

12           (2) how the State distributed the funds it re-  
13           ceived under this title;

14           (3) the number of jobs that the Governor esti-  
15           mates were saved or created with funds the State re-  
16           ceived under this title;

17           (4) tax increases that the Governor estimates  
18           were averted because of the availability of funds  
19           from this title;

20           (5) the State's progress in reducing inequities  
21           in the distribution of teachers, in implementing a  
22           State student longitudinal data system, and in devel-  
23           oping and implementing valid and reliable assess-  
24           ments for limited English proficient students and  
25           children with disabilities;

1           (6) the tuition and fee increases for in-State  
2       students imposed by public institutions of higher  
3       education in the State during the period of avail-  
4       ability of funds under this title, and a description of  
5       any actions taken by the State to limit those in-  
6       creases; and

7           (7) the extent to which public institutions of  
8       higher education maintained, increased, or decreased  
9       enrollment of in-State students, including students  
10      eligible for Pell Grants or other need-based financial  
11      assistance.

12 **SEC. 1409. EVALUATION.**

13       The Comptroller General of the United States shall  
14      conduct evaluations of the programs under sections 1406  
15      and 1407 which shall include, but not be limited to, the  
16      criteria used for the awards made, the States selected for  
17      awards, award amounts, how each State used the award  
18      received, and the impact of this funding on the progress  
19      made toward closing achievement gaps.

20 **SEC. 1410. SECRETARY'S REPORT TO CONGRESS.**

21       The Secretary shall submit a report to the Committee  
22      on Education and Labor of the House of Representatives,  
23      the Committee on Health, Education, Labor, and Pen-  
24      sions of the Senate, and the Committees on Appropria-  
25      tions of the House of Representatives and of the Senate,

1 not less than 6 months following the submission of the  
2 State reports, that evaluates the information provided in  
3 the State reports under section 1408.

4 **SEC. 1411. PROHIBITION ON PROVISION OF CERTAIN AS-**  
5 **SISTANCE.**

6 No recipient of funds under this title shall use such  
7 funds to provide financial assistance to students to attend  
8 private elementary or secondary schools, unless such funds  
9 are used to provide special education and related services  
10 to children with disabilities, as authorized by the Individ-  
11 uals with Disabilities Education Act (20 U.S.C. 1400 et  
12 seq.).

13 **SEC. 1412. DEFINITIONS.**

14 Except as otherwise provided in this title, as used in  
15 this title—

16 (1) the term “institution of higher education”  
17 has the meaning given such term in section 101 of  
18 the Higher Education Act of 1965 (20 U.S.C.  
19 1001);

20 (2) the term “Secretary” means the Secretary  
21 of Education;

22 (3) the term “State” means each of the 50  
23 States, the District of Columbia, and the Common-  
24 wealth of Puerto Rico; and

1           (4) any other term that is defined in section  
2           9101 of ESEA (20 U.S.C. 7801) shall have the  
3           meaning given the term in such section.

4 **SEC. 1413. REGULATORY RELIEF.**

5           (a) **WAIVER AUTHORITY.**—Subject to subsections (b)  
6 and (c), the Secretary of Education may, as applicable,  
7 waive or modify, in order to ease fiscal burdens, any re-  
8 quirement relating to the following:

9           (1) Maintenance of effort.

10           (2) The use of Federal funds to supplement,  
11 not supplant, non-Federal funds.

12           (b) **DURATION.**—A waiver under this section shall be  
13 for fiscal years 2009 and 2010.

14           (c) **LIMITATIONS.**—

15           (1) **RELATION TO IDEA.**—Nothing in this sec-  
16 tion shall be construed to permit the Secretary to  
17 waive or modify any provision of the Individuals  
18 with Disabilities Education Act (20 U.S.C. 1400 et  
19 seq.), except as described in a(1) and a(2).

20           (2) **MAINTENANCE OF EFFORT.**—If the Sec-  
21 retary grants a waiver or modification under this  
22 section waiving or modifying a requirement relating  
23 to maintenance of effort for fiscal years 2009 and  
24 2010, the level of effort required for fiscal year 2011

1 shall not be reduced because of the waiver or modi-  
2 fication.

3 **TITLE XV—RECOVERY ACCOUNT-**  
4 **ABILITY AND TRANSPARENCY**  
5 **BOARD AND RECOVERY INDE-**  
6 **PENDENT ADVISORY PANEL**

7 **SEC. 1501. DEFINITIONS.**

8 In this title:

9 (1) AGENCY.—The term “agency” has the  
10 meaning given under section 551 of title 5, United  
11 States Code.

12 (2) BOARD.—The term “Board” means the Re-  
13 covery Accountability and Transparency Board es-  
14 tablished in section 1511.

15 (3) CHAIRPERSON.—The term “Chairperson”  
16 means the Chairperson of the Board.

17 (4) COVERED FUNDS.—The term “covered  
18 funds” means any funds that are expended or obli-  
19 gated—

20 (A) from appropriations made under this  
21 Act; and

22 (B) under any other authorities provided  
23 under this Act.

1 (5) PANEL.—The term “Panel” means the Re-  
 2 covery Independent Advisory Panel established in  
 3 section 1531.

4 **Subtitle A—Recovery Account-**  
 5 **ability and Transparency Board**

6 **SEC. 1511. ESTABLISHMENT OF THE RECOVERY ACCOUNT-**  
 7 **ABILITY AND TRANSPARENCY BOARD.**

8 There is established the Recovery Accountability and  
 9 Transparency Board to coordinate and conduct oversight  
 10 of covered funds to prevent fraud, waste, and abuse.

11 **SEC. 1512. COMPOSITION OF BOARD.**

12 (a) CHAIRPERSON.—

13 (1) DESIGNATION OR APPOINTMENT.—The  
 14 President shall—

15 (A) designate the Deputy Director for  
 16 Management of the Office of Management and  
 17 Budget to serve as Chairperson of the Board;

18 (B) designate another Federal officer who  
 19 was appointed by the President to a position  
 20 that required the advice and consent of the  
 21 Senate, to serve as Chairperson of the Board;  
 22 or

23 (C) appoint an individual as the Chair-  
 24 person of the Board, by and with the advice  
 25 and consent of the Senate.

1 (2) COMPENSATION.—

2 (A) DESIGNATION OF FEDERAL OFFI-  
3 CER.—If the President designates a Federal of-  
4 ficer under paragraph (1)(A) or (B) to serve as  
5 Chairperson, that Federal officer may not re-  
6 ceive additional compensation for services per-  
7 formed as Chairperson.

8 (B) APPOINTMENT OF NON-FEDERAL OF-  
9 FICER.—If the President appoints an individual  
10 as Chairperson under paragraph (1)(C), that  
11 individual shall be compensated at the rate of  
12 basic pay prescribed for level IV of the Execu-  
13 tive Schedule under section 5315 of title 5,  
14 United States Code.

15 (b) MEMBERS.—The members of the Board shall in-  
16 clude—

17 (1) the Inspectors General of the Departments  
18 of Agriculture, Commerce, Education, Energy,  
19 Health and Human Services, Homeland Security,  
20 Justice, Transportation, Treasury, and the Treasury  
21 Inspector General for Tax Administration; and

22 (2) any other Inspector General as designated  
23 by the President from any agency that expends or  
24 obligates covered funds.

1 **SEC. 1513. FUNCTIONS OF THE BOARD.**

2 (a) FUNCTIONS.—

3 (1) IN GENERAL.—The Board shall coordinate  
4 and conduct oversight of covered funds in order to  
5 prevent fraud, waste, and abuse.

6 (2) SPECIFIC FUNCTIONS.—The functions of  
7 the Board shall include—

8 (A) reviewing whether the reporting of con-  
9 tracts and grants using covered funds meets ap-  
10 plicable standards and specifies the purpose of  
11 the contract or grant and measures of perform-  
12 ance;

13 (B) reviewing whether competition require-  
14 ments applicable to contracts and grants using  
15 covered funds have been satisfied;

16 (C) auditing and investigating covered  
17 funds to determine whether wasteful spending,  
18 poor contract or grant management, or other  
19 abuses are occurring;

20 (D) reviewing whether there are sufficient  
21 qualified acquisition and grant personnel over-  
22 seeing covered funds;

23 (E) reviewing whether personnel whose du-  
24 ties involve acquisitions or grants made with  
25 covered funds receive adequate training; and



1 (F) reviewing whether there are appro-  
2 priate mechanisms for interagency collaboration  
3 relating to covered funds.

4 (b) REPORTS.—

5 (1) QUARTERLY REPORTS.—The Board shall  
6 submit quarterly reports to the President and Con-  
7 gress, including the Committees on Appropriations  
8 of the Senate and House of Representatives, summa-  
9 rizing the findings of the Board and the findings of  
10 inspectors general of agencies. The Board may sub-  
11 mit additional reports as appropriate.

12 (2) ANNUAL REPORTS.—The Board shall sub-  
13 mit annual reports to the President and the Com-  
14 mittees on Appropriations of the Senate and House  
15 of Representatives, consolidating applicable quarterly  
16 reports on the use of covered funds.

17 (3) PUBLIC AVAILABILITY.—

18 (A) IN GENERAL.—All reports submitted  
19 under this subsection shall be made publicly  
20 available and posted on a website established by  
21 the Board.

22 (B) REDACTIONS.—Any portion of a re-  
23 port submitted under this subsection may be re-  
24 dacted when made publicly available, if that  
25 portion would disclose information that is not

1 subject to disclosure under section 552 of title  
2 5, United States Code (commonly known as the  
3 Freedom of Information Act).

4 (c) RECOMMENDATIONS.—

5 (1) IN GENERAL.—The Board shall make rec-  
6 ommendations to agencies on measures to prevent  
7 fraud, waste, and abuse relating to covered funds.

8 (2) RESPONSIVE REPORTS.—Not later than 30  
9 days after receipt of a recommendation under para-  
10 graph (1), an agency shall submit a report to the  
11 President, the congressional committees of jurisdic-  
12 tion, including the Committees on Appropriations of  
13 the Senate and House of Representatives, and the  
14 Board on—

15 (A) whether the agency agrees or disagrees  
16 with the recommendations; and

17 (B) any actions the agency will take to im-  
18 plement the recommendations.

19 **SEC. 1514. POWERS OF THE BOARD.**

20 (a) IN GENERAL.—The Board shall conduct, super-  
21 vise, and coordinate audits and investigations by inspec-  
22 tors general of agencies relating to covered funds.

23 (b) AUDITS AND INVESTIGATIONS.—The Board  
24 may—

1           (1) conduct its own independent audits and in-  
2       vestigations relating to covered funds; and

3           (2) collaborate on audits and investigations re-  
4       lating to covered funds with any inspector general of  
5       an agency.

6       (c) AUTHORITIES.—

7           (1) AUDITS AND INVESTIGATIONS.—In con-  
8       ducting audits and investigations, the Board shall  
9       have the authorities provided under section 6 of the  
10      Inspector General Act of 1978 (5 U.S.C. App.).

11          (2) STANDARDS AND GUIDELINES.—The Board  
12      shall carry out the powers under subsections (a) and  
13      (b) in accordance with section 4(b)(1) of the Inspec-  
14      tor General Act of 1978 (5 U.S.C. App.).

15      (d) PUBLIC HEARINGS.—The Board may hold public  
16      hearings and Board personnel may conduct investigative  
17      depositions. The head of each agency shall make all offi-  
18      cers and employees of that agency available to provide tes-  
19      timony to the Board and Board personnel. The Board may  
20      issue subpoenas to compel the testimony of persons who  
21      are not Federal officers or employees. Any such subpoenas  
22      may be enforced as provided under section 6 of the Inspec-  
23      tor General Act of 1978 (5 U.S.C. App.).

24      (e) CONTRACTS.—The Board may enter into con-  
25      tracts to enable the Board to discharge its duties under

1 this subtitle, including contracts and other arrangements  
 2 for audits, studies, analyses, and other services with public  
 3 agencies and with private persons, and make such pay-  
 4 ments as may be necessary to carry out the duties of the  
 5 Board.

6 (f) TRANSFER OF FUNDS.—The Board may transfer  
 7 funds appropriated to the Board for expenses to support  
 8 administrative support services and audits or investiga-  
 9 tions of covered funds to any office of inspector general,  
 10 the Office of Management and Budget, the General Serv-  
 11 ices Administration, and the Panel.

12 **SEC. 1515. EMPLOYMENT, PERSONNEL, AND RELATED AU-**  
 13 **THORITIES.**

14 (a) EMPLOYMENT AND PERSONNEL AUTHORITIES.—

15 (1) IN GENERAL.—

16 (A) AUTHORITIES.—Subject to paragraph  
 17 (2), the Board may exercise the authorities of  
 18 subsections (b) through (i) of section 3161 of  
 19 title 5, United States Code (without regard to  
 20 subsection (a) of that section).

21 (B) APPLICATION.—For purposes of exer-  
 22 cising the authorities described under subpara-  
 23 graph (A), the term “Chairperson of the  
 24 Board” shall be substituted for the term “head  
 25 of a temporary organization”.

1 (C) CONSULTATION.—In exercising the au-  
2 thorities described under subparagraph (A), the  
3 Chairperson shall consult with members of the  
4 Board.

5 (2) EMPLOYMENT AUTHORITIES.—In exercising  
6 the employment authorities under subsection (b) of  
7 section 3161 of title 5, United States Code, as pro-  
8 vided under paragraph (1) of this subsection—

9 (A) paragraph (2) of subsection (b) of sec-  
10 tion 3161 of that title (relating to periods of  
11 appointments) shall not apply; and

12 (B) no period of appointment may exceed  
13 the date on which the Board terminates under  
14 section 1521.

15 (b) INFORMATION AND ASSISTANCE.—

16 (1) IN GENERAL.—Upon request of the Board  
17 for information or assistance from any agency or  
18 other entity of the Federal Government, the head of  
19 such entity shall, insofar as is practicable and not in  
20 contravention of any existing law, furnish such infor-  
21 mation or assistance to the Board, or an authorized  
22 designee.

23 (2) REPORT OF REFUSALS.—Whenever infor-  
24 mation or assistance requested by the Board is, in  
25 the judgment of the Board, unreasonably refused or

1 not provided, the Board shall report the cir-  
2 cumstances to the congressional committees of juris-  
3 diction, including the Committees on Appropriations  
4 of the Senate and House of Representatives, without  
5 delay.

6 (c) ADMINISTRATIVE SUPPORT.—The General Serv-  
7 ices Administration shall provide the Board with adminis-  
8 trative support services, including the provision of office  
9 space and facilities.

10 **SEC. 1516. INDEPENDENCE OF INSPECTORS GENERAL.**

11 (a) INDEPENDENT AUTHORITY.—Nothing in this  
12 subtitle shall affect the independent authority of an in-  
13 spector general to determine whether to conduct an audit  
14 or investigation of covered funds.

15 (b) REQUESTS BY BOARD.—If the Board requests  
16 that an inspector general conduct or refrain from con-  
17 ducting an audit or investigation and the inspector general  
18 rejects the request in whole or in part, the inspector gen-  
19 eral shall, not later than 30 days after rejecting the re-  
20 quest, submit a report to the Board, the head of the appli-  
21 cable agency, and the congressional committees of juris-  
22 diction, including the Committees on Appropriations of the  
23 Senate and House of Representatives. The report shall  
24 state the reasons that the inspector general has rejected  
25 the request in whole or in part.

1 **SEC. 1517. COORDINATION WITH THE COMPTROLLER GEN-**  
2 **ERAL AND STATE AUDITORS.**

3 The Board shall coordinate its oversight activities  
4 with the Comptroller General of the United States and  
5 State auditor generals.

6 **SEC. 1518. PROTECTING STATE AND LOCAL GOVERNMENT**  
7 **AND CONTRACTOR WHISTLEBLOWERS.**

8 (a) PROHIBITION OF REPRISALS.—An employee of  
9 any non-Federal employer receiving covered funds may not  
10 be discharged, demoted, or otherwise discriminated  
11 against as a reprisal for disclosing to the Board, an in-  
12 spector general, the Comptroller General, a member of  
13 Congress, or a the head of a Federal agency, or their rep-  
14 resentatives, information that the employee reasonably be-  
15 lieves is evidence of—

16 (1) gross mismanagement of an agency contract  
17 or grant relating to covered funds;

18 (2) a gross waste of covered funds;

19 (3) a substantial and specific danger to public  
20 health or safety; or

21 (4) a violation of law related to an agency con-  
22 tract (including the competition for or negotiation of  
23 a contract) or grant, awarded or issued relating to  
24 covered funds.

25 (b) INVESTIGATION OF COMPLAINTS.—

1           (1) IN GENERAL.—A person who believes that  
2           the person has been subjected to a reprisal prohib-  
3           ited by subsection (a) may submit a complaint to the  
4           appropriate inspector general. Unless the inspector  
5           general determines that the complaint is frivolous,  
6           the inspector general shall investigate the complaint  
7           and, upon completion of such investigation, submit  
8           a report of the findings of the investigation to the  
9           person, the person’s employer, the head of the ap-  
10          propriate agency, and the Board.

11          (2) TIME LIMITATIONS FOR ACTIONS.—

12                (A) IN GENERAL.—Except as provided  
13                under subparagraph (B), the inspector general  
14                shall make a determination that a complaint is  
15                frivolous or submit a report under paragraph  
16                (1) within 180 days after receiving the com-  
17                plaint.

18                (B) EXTENSION.—If the inspector general  
19                is unable to complete an investigation in time to  
20                submit a report within the 180-day period spec-  
21                ified under subparagraph (A) and the person  
22                submitting the complaint agrees to an extension  
23                of time, the inspector general shall submit a re-  
24                port under paragraph (1) within such additional  
25                period of time as shall be agreed upon between



1           the inspector general and the person submitting  
2           the complaint.

3           (c) REMEDY AND ENFORCEMENT AUTHORITY.—

4           (1) AGENCY ACTION.—Not later than 30 days  
5           after receiving an inspector general report under  
6           subsection (b), the head of the agency concerned  
7           shall determine whether there is sufficient basis to  
8           conclude that the non-Federal employer has sub-  
9           jected the complainant to a reprisal prohibited by  
10          subsection (a) and shall either issue an order deny-  
11          ing relief or shall take 1 or more of the following ac-  
12          tions:

13                   (A) Order the employer to take affirmative  
14                   action to abate the reprisal.

15                   (B) Order the employer to reinstate the  
16                   person to the position that the person held be-  
17                   fore the reprisal, together with the compensa-  
18                   tion (including back pay), employment benefits,  
19                   and other terms and conditions of employment  
20                   that would apply to the person in that position  
21                   if the reprisal had not been taken.

22                   (C) Order the employer to pay the com-  
23                   plainant an amount equal to the aggregate  
24                   amount of all costs and expenses (including at-  
25                   torneys' fees and expert witnesses' fees) that

1           were reasonably incurred by the complainant  
2           for, or in connection with, bringing the com-  
3           plaint regarding the reprisal, as determined by  
4           the head of the agency.

5           (2) CIVIL ACTION.—If the head of an agency  
6           issues an order denying relief under paragraph (1)  
7           or has not issued an order within 210 days after the  
8           submission of a complaint under subsection (b), or  
9           in the case of an extension of time under subsection  
10          (b)(2)(B), not later than 30 days after the expira-  
11          tion of the extension of time, and there is no show-  
12          ing that such delay is due to the bad faith of the  
13          complainant, the complainant shall be deemed to  
14          have exhausted all administrative remedies with re-  
15          spect to the complaint, and the complainant may  
16          bring a de novo action at law or equity against the  
17          employer to seek compensatory damages and other  
18          relief available under this section in the appropriate  
19          district court of the United States, which shall have  
20          jurisdiction over such an action without regard to  
21          the amount in controversy. Such an action shall, at  
22          the request of either party to the action, be tried by  
23          the court with a jury.

24          (3) EVIDENCE.—An inspector general deter-  
25          mination and an agency head order denying relief

1 under paragraph (2) shall be admissible in evidence  
2 in any de novo action at law or equity brought in ac-  
3 cordance with this subsection.

4 (4) JUDICIAL ENFORCEMENT OF ORDER.—

5 Whenever a person fails to comply with an order  
6 issued under paragraph (1), the head of the agency  
7 shall file an action for enforcement of such order in  
8 the United States district court for a district in  
9 which the reprisal was found to have occurred. In  
10 any action brought under this paragraph, the court  
11 may grant appropriate relief, including injunctive re-  
12 lief and compensatory and exemplary damages.

13 (5) JUDICIAL REVIEW.—Any person adversely  
14 affected or aggrieved by an order issued under para-  
15 graph (1) may obtain review of the order's conform-  
16 ance with this subsection, and any regulations issued  
17 to carry out this section, in the United States court  
18 of appeals for a circuit in which the reprisal is al-  
19 leged in the order to have occurred. No petition  
20 seeking such review may be filed more than 60 days  
21 after issuance of the order by the head of the agen-  
22 cy. Review shall conform to chapter 7 of title 5,  
23 United States Code.

24 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
25 tion may be construed to authorize the discharge of, demo-

tion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

**SEC. 1519. BOARD WEBSITE.**

(a) ESTABLISHMENT.—The Board shall establish and maintain a user-friendly, public-facing website to foster greater accountability and transparency in the use of covered funds.

(b) PURPOSE.—The website established and maintained under subsection (a) shall be a portal or gateway to key information relating to this Act and provide connections to other Government websites with related information.

(c) CONTENT AND FUNCTION.—In establishing the website established and maintained under subsection (a), the Board shall ensure the following:

(1) The website shall provide materials explaining what this Act means for citizens. The materials shall be easy to understand and regularly updated.

(2) The website shall provide accountability information, including a database of findings from audits, inspectors general, and the Government Accountability Office.

1           (3) The website shall provide data on relevant  
2           economic, financial, grant, and contract information  
3           in user-friendly visual presentations to enhance pub-  
4           lic awareness of the use of covered funds.

5           (4) The website shall provide detailed data on  
6           contracts awarded by the Government that expend  
7           covered funds, including information about the com-  
8           petitiveness of the contracting process, notification  
9           of solicitations for contracts to be awarded, and in-  
10          formation about the process that was used for the  
11          award of contracts.

12          (5) The website shall include printable reports  
13          on covered funds obligated by month to each State  
14          and congressional district.

15          (6) The website shall provide a means for the  
16          public to give feedback on the performance of con-  
17          tracts that expend covered funds.

18          (7) The website shall be enhanced and updated  
19          as necessary to carry out the purposes of this sub-  
20          title.

21          (d) WAIVER.—The Board may exclude posting con-  
22          tractual or other information on the website on a case-  
23          by-case basis when necessary to protect national security.

1 **SEC. 1520. AUTHORIZATION OF APPROPRIATIONS.**

2       There are authorized to be appropriated such sums  
3 as necessary to carry out this subtitle.

4 **SEC. 1521. TERMINATION OF THE BOARD.**

5       The Board shall terminate on September 30, 2012.

6 **Subtitle B—Recovery Independent**  
7 **Advisory Panel**

8 **SEC. 1531. ESTABLISHMENT OF RECOVERY INDEPENDENT**  
9 **ADVISORY PANEL.**

10       (a) **ESTABLISHMENT.**—There is established the Re-  
11 covery Independent Advisory Panel.

12       (b) **MEMBERSHIP.**—The Panel shall be composed of  
13 5 members who shall be appointed by the President.

14       (c) **QUALIFICATIONS.**—Members shall be appointed  
15 on the basis of expertise in economics, public finance, con-  
16 tracting, accounting, or any other relevant field.

17       (d) **INITIAL MEETING.**—Not later than 30 days after  
18 the date on which all members of the Panel have been  
19 appointed, the Panel shall hold its first meeting.

20       (e) **MEETINGS.**—The Panel shall meet at the call of  
21 the Chairperson of the Panel.

22       (f) **QUORUM.**—A majority of the members of the  
23 Panel shall constitute a quorum, but a lesser number of  
24 members may hold hearings.

1 (g) CHAIRPERSON AND VICE CHAIRPERSON.—The  
2 Panel shall select a Chairperson and Vice Chairperson  
3 from among its members.

4 **SEC. 1532. DUTIES OF THE PANEL.**

5 The Panel shall make recommendations to the Board  
6 on actions the Board could take to prevent fraud, waste,  
7 and abuse relating to covered funds.

8 **SEC. 1533. POWERS OF THE PANEL.**

9 (a) HEARINGS.—The Panel may hold such hearings,  
10 sit and act at such times and places, take such testimony,  
11 and receive such evidence as the Panel considers advisable  
12 to carry out this subtitle.

13 (b) INFORMATION FROM FEDERAL AGENCIES.—The  
14 Panel may secure directly from any agency such informa-  
15 tion as the Panel considers necessary to carry out this sub-  
16 title. Upon request of the Chairperson of the Panel, the  
17 head of such agency shall furnish such information to the  
18 Panel.

19 (c) POSTAL SERVICES.—The Panel may use the  
20 United States mails in the same manner and under the  
21 same conditions as agencies of the Federal Government.

22 (d) GIFTS.—The Panel may accept, use, and dispose  
23 of gifts or donations of services or property.

1 **SEC. 1534. PANEL PERSONNEL MATTERS.**

2 (a) COMPENSATION OF MEMBERS.—Each member of  
3 the Panel who is not an officer or employee of the Federal  
4 Government shall be compensated at a rate equal to the  
5 daily equivalent of the annual rate of basic pay prescribed  
6 for level IV of the Executive Schedule under section 5315  
7 of title 5, United States Code, for each day (including  
8 travel time) during which such member is engaged in the  
9 performance of the duties of the Panel. All members of  
10 the Panel who are officers or employees of the United  
11 States shall serve without compensation in addition to that  
12 received for their services as officers or employees of the  
13 United States.

14 (b) TRAVEL EXPENSES.—The members of the Panel  
15 shall be allowed travel expenses, including per diem in lieu  
16 of subsistence, at rates authorized for employees of agen-  
17 cies under subchapter I of chapter 57 of title 5, United  
18 States Code, while away from their homes or regular  
19 places of business in the performance of services for the  
20 Panel.

21 (c) STAFF.—

22 (1) IN GENERAL.—The Chairperson of the  
23 Panel may, without regard to the civil service laws  
24 and regulations, appoint and terminate an executive  
25 director and such other additional personnel as may  
26 be necessary to enable the Panel to perform its du-



1       ties. The employment of an executive director shall  
2       be subject to confirmation by the Panel.

3           (2) COMPENSATION.—The Chairperson of the  
4       Panel may fix the compensation of the executive di-  
5       rector and other personnel without regard to chapter  
6       51 and subchapter III of chapter 53 of title 5,  
7       United States Code, relating to classification of posi-  
8       tions and General Schedule pay rates, except that  
9       the rate of pay for the executive director and other  
10      personnel may not exceed the rate payable for level  
11      V of the Executive Schedule under section 5316 of  
12      such title.

13           (3) PERSONNEL AS FEDERAL EMPLOYEES.—

14           (A) IN GENERAL.—The executive director  
15      and any personnel of the Panel who are employ-  
16      ees shall be employees under section 2105 of  
17      title 5, United States Code, for purposes of  
18      chapters 63, 81, 83, 84, 85, 87, 89, 89A, 89B,  
19      and 90 of that title.

20           (B) MEMBERS OF PANEL.—Subparagraph  
21      (A) shall not be construed to apply to members  
22      of the Panel.

23           (d) DETAIL OF GOVERNMENT EMPLOYEES.—Any  
24      Federal Government employee may be detailed to the  
25      Panel without reimbursement, and such detail shall be

1 without interruption or loss of civil service status or privi-  
 2 lege.

3 (e) PROCUREMENT OF TEMPORARY AND INTERMIT-  
 4 TENT SERVICES.—The Chairperson of the Panel may pro-  
 5 cure temporary and intermittent services under section  
 6 3109(b) of title 5, United States Code, at rates for individ-  
 7 uals which do not exceed the daily equivalent of the annual  
 8 rate of basic pay prescribed for level V of the Executive  
 9 Schedule under section 5316 of such title.

10 (f) ADMINISTRATIVE SUPPORT.—The General Serv-  
 11 ices Administration shall provide the Board with adminis-  
 12 trative support services, including the provision of office  
 13 space and facilities.

14 **SEC. 1535. TERMINATION OF THE PANEL.**

15 The Panel shall terminate on September 30, 2012.

16 **SEC. 1536. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums  
 18 as necessary to carry out this subtitle.

19 **Subtitle C—Reports of the Council**  
 20 **of Economic Advisers**

21 **SEC. 1541. REPORTS OF THE COUNCIL OF ECONOMIC AD-**  
 22 **VISERS.**

23 (a) IN GENERAL.—In consultation with the Director  
 24 of the Office of Management and Budget and the Sec-  
 25 retary of the Treasury, the Chairperson of the Council of

1 Economic Advisers shall submit quarterly reports to the  
 2 Committees on Appropriations of the Senate and House  
 3 of Representatives that detail the estimated impact of pro-  
 4 grams funded through covered funds on employment, eco-  
 5 nomic growth, and other key economic indicators.

6 (b) SUBMISSION.—The first report under subsection  
 7 (a) shall be submitted not later than 15 days after the  
 8 end of the first full quarter following the date of enact-  
 9 ment of this Act. The last report required to be submitted  
 10 under subsection (a) shall apply to the quarter in which  
 11 the Board terminates under section 1521.

## 12 TITLE XVI—GENERAL PROVISIONS—THIS ACT

### 13 EMERGENCY DESIGNATION

14 SEC. 1601. Each amount in this Act is designated  
 15 as an emergency requirement and necessary to meet emer-  
 16 gency needs pursuant to section 204(a) of S. Con. Res.  
 17 21 (110th Congress) and section 301(b)(2) of S. Con. Res.  
 18 70 (110th Congress), the concurrent resolutions on the  
 19 budget for fiscal years 2008 and 2009.

### 20 AVAILABILITY

21 SEC. 1602. No part of any appropriation contained  
 22 in this Act shall remain available for obligation beyond  
 23 the current fiscal year unless expressly so provided herein.

### 24 RELATIONSHIP TO OTHER APPROPRIATIONS

25 SEC. 1603. Each amount appropriated or made avail-  
 26 able in this Act is in addition to amounts otherwise appro-

1 priated for the fiscal year involved. Enactment of this Act  
2 shall have no effect on the availability of amounts under  
3 the Continuing Appropriations Resolution, 2009 (division  
4 A of Public Law 110–329).

5 BUY AMERICAN

6 SEC. 1604. USE OF AMERICAN IRON, STEEL, AND  
7 MANUFACTURED GOODS. (a) None of the funds appro-  
8 priated or otherwise made available by this Act may be  
9 used for a project for the construction, alteration, mainte-  
10 nance, or repair of a public building or public work unless  
11 all of the iron, steel, and manufactured goods used in the  
12 project are produced in the United States.

13 (b) Subsection (a) shall not apply in any case in  
14 which the head of the Federal department or agency in-  
15 volved finds that—

16 (1) applying subsection (a) would be incon-  
17 sistent with the public interest;

18 (2) iron, steel, and the relevant manufactured  
19 goods are not produced in the United States if suffi-  
20 cient and reasonably available quantities and of a  
21 satisfactory quality; or

22 (3) inclusion of iron, steel, and manufactured  
23 goods produced in the United States will increase  
24 the cost of the overall project by more than 25 per-  
25 cent.

1 (c) If the head of a Federal department or agency  
 2 determines that it is necessary to waive the application  
 3 of subsection (a) based on a finding under subsection (b),  
 4 the head of the department or agency shall publish in the  
 5 Federal Register a detailed written jurisdiction as to why  
 6 the provision is being waived.

7 (d) In this section, the terms “public building” and  
 8 “public work” have the meanings given such terms in sec-  
 9 tion 1 of the Buy American Act (41 U.S.C. 10c) and in-  
 10 clude airports, bridges, canals, dams, dikes, pipelines, rail-  
 11 roads, multiline mass transit systems, roads, tunnels, har-  
 12 bors, and piers.

#### 13 CERTIFICATION

14 SEC. 1605. With respect to funds in titles I through  
 15 XVI of this Act made available to State, or local govern-  
 16 ment agencies, the Governor, mayor, or other chief execu-  
 17 tive, as appropriate, shall certify that the infrastructure  
 18 investment has received the full review and vetting re-  
 19 quired by law and that the chief executive accepts respon-  
 20 sibility that the infrastructure investment is an appro-  
 21 priate use of taxpayer dollars. A State or local agency may  
 22 not receive infrastructure investment funding from funds  
 23 made available in this Act unless this certification is made.

#### 24 ECONOMIC STABILIZATION CONTRACTING

25 SEC. 1606. REFORM OF CONTRACTING PROCEDURES  
 26 UNDER EESA. Section 107(b) of the Emergency Eco-

1 nomic Stabilization Act of 2008 (12 U.S.C. 5217(b)) is  
2 amended by inserting “and individuals with disabilities  
3 and businesses owned by individuals with disabilities (for  
4 purposes of this subsection the term ‘individual with dis-  
5 ability’ has the same meaning as the term ‘handicapped  
6 individual’ as that term is defined in section 3(f) of the  
7 Small Business Act (15 U.S.C. 632(f)),” after “(12  
8 U.S.C. 1441a(r)(4)),”.

9       This Act may be cited as the “American Recovery  
10 and Reinvestment Act of 2009”.

Calendar No. 19

111TH CONGRESS  
1ST Session

**S. 336**

[Report No. 111-3]

**A BILL**

Making supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization, for the fiscal year ending September 30, 2009, and for other purposes.

JANUARY 27, 2009

Read twice and placed on the calendar